

No. 8-17

Filed January 17, 2017

By Alicia Jamer  
Clerk of the Board of Supervisors



## RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TUOLUMNE

WHEREAS, Section 25300 of the California Government Code authorizes the Board of Supervisors to prescribe the compensation of County employees; and

WHEREAS, representatives of the County and the Tuolumne County Deputy Sheriff's Association have met and conferred in good faith and have reached agreement on wages, hours, and other terms and conditions of employment for all employees allocated to the Deputy Sheriff's Association.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors approves the Tuolumne County Deputy Sheriff's Association Memorandum of Understanding of 2017-2019 attached hereto as Exhibit A.

ADOPTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF TUOLUMNE ON 1/17 2017

AYES: 1st Dist. <u>Brown</u>	NOES: _____	Dist. _____
2nd Dist. <u>Hunkelt</u>		Dist. _____
3rd Dist. <u>Absent</u>	ABSENT: <u>3rd</u>	Dist. <u>Boye</u>
4th Dist. <u>Gray</u>		Dist. _____
5th Dist. <u>Rodriguez</u>	ABSTAIN: _____	Dist. _____

Sherris Brennan  
CHAIRPERSON OF THE BOARD OF SUPERVISORS

ATTEST: Alicia Jamer  
Clerk of the Board of Supervisors

No. 8-17.

*Memorandum of  
Understanding  
2017 - 2019*



*Between the  
Tuolumne County Deputy Sheriff's  
Association  
and the  
County of Tuolumne*

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## **PREAMBLE**

It is the purpose of this Agreement to set forth the wages, hours and other terms and conditions of employment for employees in the Safety unit and represented by the Tuolumne County Deputy Sheriff's Association upon adoption by the Board of Supervisors for a term of January 1, 2017 through December 31, 2019.

The County of Tuolumne Safety Unit, represented by the Deputy Sheriffs' Association is the sole representative for permanent full-time and part-time benefited employees in the classifications listed in Article 2, and any classifications added at a later date through the agreement of the County and the Association.

The County agrees not to attempt to reallocate non-sworn classifications out of the bargaining unit during the term of this MOU; provided, however, all parties are free to initiate unit modifications in the time frame specified in the County's EERR, section 8.c (i.e., 120 days prior to expiration of the MOU).

## **ARTICLE 1. COUNTY MANAGEMENT RIGHTS**

All management rights and functions shall remain vested exclusively with the County except those which are clearly and expressly limited or referred to in this Agreement, including specifically the Article 19, Full Understanding. Such management rights and functions include but are not limited to:

- (a) The right to determine the mission of each of its agencies, departments, institutions, boards and commissions.
- (b) The right of full exclusive control of the management of the County; supervision of all operations, determination of the methods and means of performing any and all work; and composition, assignment, direction, location, and determination of the size and mission of the work force.
- (c) The right to determine the work to be done by the employees, including establishment of levels of service and staffing patterns.
- (d) The right to change or introduce new or improved operations, methods, means or facilities, or, to contract for work to be done.
- (e) The right to prescribe qualifications for employment and determine whether they are met; to hire, set and enforce performance standards, and promote employees, to establish, revise and enforce work rules; to schedule work time and time off; to transfer, reassign, furlough and lay off employees; to suspend, reduce in step, demote, discharge or otherwise discipline employees for cause; and to otherwise maintain orderly, effective, and efficient operations.

## **ARTICLE 2. COMPENSATION**

### **Section A. Salary**

1. The following base salary ranges shall be applicable on the date indicated for classifications in this Unit for the period commencing the first pay period after ratification of this agreement by the Tuolumne County Board of Supervisors and ending on December 31, 2019.

<b>Class Title</b>	<b>Range Effective 6/26/16</b>	<b>PPD with 1/1/17: down to 17%</b>	<b>PPD with 1/1/17 : 4% COLA</b>	<b>PPD with 1/1/18: down to 15%</b>	<b>PPD with 1/1/18 : 3% COLA</b>	<b>PPD with 1/1/19: down to 13%</b>	<b>PPD with 1/1/19: 2% COLA</b>
Community Services Officer I	316		324		330		334
Community Services Officer II	336		344		350		354
Deputy Probation Officer I	366		374		380		384
Deputy Probation Officer II	386		394		400		404
Deputy Sheriff	397		405		411		415
Deputy Sheriff Recruit	377		385		391		395
Deputy Sheriff Corporal	409		417		423		427
District Attorney Investigator	427	431	439	443	449	453	457
Jail Booking Clerk	317		325	327	333	337	341
Jail Deputy Sheriff	368		376		382	384	388
Jail Deputy Sheriff Recruit	348		356		362	364	368
Jail Deputy Sheriff Corporal	380		388		394	396	400
Jail Sergeant	405		413		419		423
Jail Work Crew Manager	377		385		391	395	399
Juvenile Correctional Officer I	348		356		362		366
Juvenile Correctional Officer II	368		376		382		386
Lead Jail Booking Clerk	331	335	343	347	353	357	361
Senior Deputy Probation Officer	406		414		420		424
Senior Juvenile Corrections Officer	388		396		402		406
Senior Welfare Fraud Investigator	418		426		432		436
Sheriff's Detective	417		425		431		435
Sheriff's Dispatcher I	333		341		347		351
Sheriff's Dispatcher II	353		361		367		371
Sheriff's Lead Dispatcher	368		376		382	384	388
Sheriff's Sergeant	443		451		457		461
Supervising District Attorney Investigator	447	451	459	463	469	473	477
Supervising Probation Officer	443		451		457		461
Welfare Fraud Investigator I	378		386		392		396
Welfare Fraud Investigator II	398		406		412		416

## **Section B. Base Salary Range**

For purposes of this Agreement, base salary range shall mean the salary range assigned to a specific classification as provided in Section A of this Article. Base salary rate shall mean the hourly rate of pay established pursuant to the step placement within the base salary range as provided in this Agreement. Salary range shall be those provided in the County's Classification Listing. Paid time shall be based upon the base salary rate with the computation rounded to the nearest cent. Base salary rate shall also include P.O.S.T. and educational incentive pay differential. For purposes of promotion, base salary rate does not include pay differentials as specified in Article 3 of this Agreement.

## **Section C. Salary Rates and Step Advancements**

New employees shall be hired at the "A" step of the established base salary range, except as otherwise provided in this Agreement. Variable entrance steps may be established if justified by recruitment needs through the "E" step with the approval of the County Administrator.

Promoted employees shall receive the "A" step of the established base salary range of the new classification or at least five percent (5%) whichever is greater; provided, that no employee is thereby advanced above the "E" step of the higher base salary range.

All step advancements and promotions shall be made on the first day of a pay period. Approval for advancement shall be based upon satisfactory work performance and completion of required length of service in the classification, as set forth in the job posting, and upon the approval of the Department Head.

Except as otherwise provided in this Agreement advancement to the "B" and all subsequent step(s) shall be contingent upon the completion of two thousand eighty (2,080) regularly scheduled hours of satisfactory work performance, as evidenced by performance appraisals at the lower step.

An employee whose step advancement is being denied must receive at least ten (10) work days, prior to his/her anniversary date, notification of the denial. A denied step advancement may be subsequently granted following a review period of at least sixty (60) work days and the Department Head determines the employee is performing at the "meets expectations" level.

If an employee has reached the "20th" pay period in their current classification and pay range and is promoted to a higher level position, the employee shall be afforded the benefit of the step raise in the higher classification, as well as the minimum promotion increase.

The County Administrator may authorize the adjustment of the salary step or salary rate of an employee to maintain salary equity within the system, to prevent undue hardship or unfairness due to the application of any rule or policy, or to correct any payroll error or omission.

#### **Section D. Performance Pay Plan**

An employee who has consistently maintained a level of performance well above the standard of expectations and whose overall performance evaluation rating exceeds expectations may be eligible for an accelerated step increase (meaning a two-step increase instead of the traditional one step increase). Said accelerated step increase shall be at the sole discretion of the Department Head and with the approval of the County Administrator.

#### **Section E. Retention Incentive (Longevity) Pay**

Employees who complete specific lengths of continuous County service shall be granted additional compensation per the following table. The salary increase at each step is over and above the salary at the previous level.

Years of satisfactory continuous County Service	Salary increase
10 years	5%
15 years	10%
20 years	15%
25 years	17.5%
30 years	20%

## **Section F. Relief Employees**

Relief employees shall be compensated on an hourly basis only for hours actually worked. Relief employees' salary at time of appointment and step advancements shall be limited to a maximum of the "E" step of the appropriate base salary range of the comparable permanent classification and based upon completed pay periods (equivalent to 2080 hours per year) and satisfactory work performance; provided, however, that permanent employees appointed to a relief position of the same classification shall be compensated at the same step in the relief position as they are in their permanent position. Exceptions may be made subject to the approval of the County Administrator.

## **Section G. Pay Period**

A pay period is defined as the fourteen (14) calendar day period from 12:01 a.m. Sunday to 12:00 p.m. (midnight) Saturday two weeks thereafter.

## **Section H. Paychecks and Payroll Deductions**

Paychecks shall be issued bi-weekly. One payroll deduction per employee per pay period shall be granted to the Association. This payroll deduction may be in any amount of money authorized by the employee.

All employees shall arrange for direct deposit of paychecks by the County to a financial institution identified by the employee.

## **ARTICLE 3. PAY DIFFERENTIALS, ASSIGNMENT, ON-CALL & CALL BACK PAY**

### **Section A. Training Officers**

Deputy Sheriff Detectives, Deputy Probation Officers II and Jail Booking Clerks while actively assigned to train other employees in their classification shall receive a ten (10) range pay differential over and above their base salary range established pursuant to Article 2. Training Officer and Training Clerk shifts are assigned to meet the needs of the Department, as provided in Article 4, Section A, Standard Tour of Duty.

### **Section B. Special Assignments**

Assignments may be made or renewed by the Sheriff at his/her discretion, and shall not be subject to the grievance procedure. If the number of special assignments were to decrease, the Sheriff shall have the discretion to reassign deputies out of those special assignments. The Sheriff shall have discretion to determine the number of personnel assigned to special assignments (within the budget). Upon the request of the employee, a meeting may be scheduled with the Sheriff to review the facts regarding non-renewal of appointments, which meeting shall satisfy any appeal rights under the Public Safety Officers Procedural Bill of Rights Act (POBAR).

Assignments may be set for a period of three years but may be extended at the discretion of the Sheriff, for an additional term usually not to exceed three years. If the additional term extends beyond three years, there must be a showing of exceptional circumstances which warrant the additional extension. A decision not to extend the assignment is not subject to grievance or appeal.

Specialized Assignments include but are not limited to the following:

Civil Sergeant  
Civil Deputy  
Detective Sergeant  
TNT Sergeant  
Investigations Detective  
Administrative Deputy  
School Resource Officer  
Deputy Coroner  
Transportation Jail Deputy  
Classification Jail Deputy  
Custody Division Administrative Sergeant  
Boat Patrol Sergeant  
Boat Patrol Deputy  
Bailliff  
TNT Detective

Removal during the term of the assignment for disciplinary reasons may be appealed under the applicable procedures set forth in the Memorandum of Understanding.

The date of the employee's assignment will be treated as the anniversary date.

Due to the criticality of background investigations to maintain staffing and complete them promptly in order to secure new employees, background investigations may be conducted by qualified Special Services Deputies in the Sheriff's Department or by a Probation Background Investigator in the Probation Department.

#### *Investigations Deputy Assignment Pay*

The Deputy Sheriff assigned to the Investigations training assignment shall receive a 10 range increase over and above his/her regular salary. After completing a task oriented training program which allows him/her to respond solo to handle on-call duties his/her pay will increase to 20 ranges over and above his/her regular salary. The training program shall be reviewed by the Training Coordinator and approved by the Sheriff. The training program shall not exceed six months unless the employee is off work due to injury or illness during the training period. In that case, the training period will be extended for the same amount of time that was missed due to the absences. Upon termination of his/her assignment to the Investigations Section the Deputy will revert back to his/her regular salary. In the event an assigned Deputy is promoted to Sergeant while on special assignment, or within six months of returning to Deputy from the special assignment, he/she shall not take a cut in pay by accepting the promotion. E.g. Deputy at E step 20 ranges above Deputy Sheriff when promoted to Sergeant would automatically be moved to E step at the Detective Range. Deputies promoted to Sergeant will serve a probation period regardless of their pay.

Sergeants assigned to Investigations or TNT will receive 20 ranges over and above his/her salary during the period of assignment.

Current employees assigned to Investigations as full time Sheriff Detectives shall remain permanent until, through attrition, the position becomes vacant at which time the vacant position(s) will be filled via special assignment.

#### **Assignment Posting and Selection**

Except for uniformed patrol assignments, all other assignments shall be posted per Article 12.



Section B and selections made from an eligibility list developed from the posting and testing process. Should an assignment be posted and no one applies, the Sheriff may assign the most qualified person who meets minimum qualifications, taking seniority into consideration

### **Section C. Canine Pay**

The County and DSA agree that a reasonable estimate of the time a represented employees assigned a canine spends providing general home care, feeding, exercising, and transporting to and from work of canines, but not including irregularly recurring time such as traveling to and from and attending training programs and veterinary appointments is twenty (20) minutes per day and 10.14 hours per month. The City and DSA agree that the County shall each month pay 1.5 times the legally required minimum wage for 10.14 hours for these duties. Currently, the minimum wage is \$10 per hour so, effective the first full pay period following Board approval of this MOU, employees with an assigned canine shall be paid \$152.10 per month ( $1.5 \times \$10/\text{hour} \times 10.14 \text{ hours}$ ). Effective January 1, 2017, the minimum wage is expected to increase to \$10.50 per hour. As such, the monthly amount paid to employees with an assigned canine would increase to \$159.71 ( $1.5 \times \$10.50/\text{hour} \times 10.14 \text{ hours}$ ).

### **Section D. Jail Deputy Sheriff – Shift Assignment**

Any Jail Deputy Sheriff who is precluded from choosing a particular shift for which said employee has bid for and been denied because of his/her gender, which otherwise would have been available to him/her on the basis of seniority and for which he/she would have been able to select shall be entitled to receive a differential of ten (10) ranges for the duration of that shift preclusion.

### **Section E. Out of Class Pay (Long Term)**

Employees directed to work in a vacant higher level permanent position shall receive a salary rate increase to the higher level for each full shift worked after successful completion of a training period in the higher level classification of one hundred sixty (160) hours aggregate. Such increase shall be determined for pay purposes as if the assignment had been a promotion. For purposes of this Article, a vacant position is defined as an authorized permanent position that is unoccupied due to a vacancy or due to the incumbent's being on leave (sick/annual). The Human Resources Manager must approve requests for higher compensation. Such requests may only be approved upon certification by the Department Head that the assigned employee meets the minimum qualifications and is assigned and held responsible to fully perform the full scope of duties normally associated with the higher-level position.

### **Section F. Officer in Charge (OIC) Pay (Short Term)**

Employees assigned to work in a higher-level classification, shall receive a salary rate increase of ten ranges (10) over and above the employee's normal salary for those hours assigned as OIC. Employees become eligible for OIC pay after successfully completing a training period in the higher-level classification by working one hundred sixty (160) hours aggregate performing the duties of the higher classification. Example: Deputy Sheriff working in the absence of a Sheriff's Sergeant who is on leave.

Corporals (Deputy or Jail Deputy) who are formally asked to work as a Sergeant by the Sheriff or his designee or Juvenile Correctional Officer II who are formally asked to work as a Senior Correctional Officer by the Juvenile Detention Facility Superintendent or designee for more than 2 consecutive weeks shall receive out-of-class pay. In any fiscal year, if a Corporal or Juvenile Correctional Officer

II works more than 300 hours as a Sergeant or Senior Juvenile Correctional Officer he/she shall be entitled to receive out-of-class pay. This pay shall only apply to out of class work performed after the execution of this Agreement by the County and the DSA. For the first year of this Agreement the 300 hour requirement will be prorated over the remainder of the year. (Thus if the Agreement is executed after 1/3 of the contract year is completed, Corporals/Juvenile Correctional Officer II would have to work 200 hours in the remainder of the year before becoming eligible for out of class pay under that criterion). Staffing requirements for a shift are generally determined by the Field Watch Commander for the Patrol Section, the Jail Watch Commander for the Custody Division, or the Juvenile Detention Facility Superintendent for Juvenile Hall based on the totality of the situation and staffing recommendations provided by the Board of Corrections. This section is not intended to force Corporals to work for Sergeants with OIC pay while Deputies are brought in on overtime to work for the Corporal taking the Sergeant's position.

## **Section G. On-Call Pay**

(1) Employees who are released from active duty but are required by their departments to leave notice where they can be reached and be available to return to active duty when required by the department, shall be assigned to on-call duty. While on on-call, an employee shall be free to use the time for his or her own purposes, except that employees so assigned shall: (1) leave a telephone number where they can be reached or wear a communicating device (county required cell phone, pager, smart phone, etc.); (2) be able to respond to duty within a reasonable period of time i.e. leave their location within 15 minutes; and (3) refrain from activities such as drinking any alcoholic beverages or taking medications that impair the employee's ability to perform assigned duties. Employees in the Probation Department who are on-call must have an internet connection or cell phone connectivity to allow a smart phone, tablet or lap top to access the department case management system. A "reasonable period of time" as referenced in sentence (2) above will be 30 minutes for on-call staff who reside within the County and 60 minutes for on-call staff living outside the County.

On-call time shall not count as hours worked. Assigned personnel, with the exception of Investigative personnel, shall receive on-call pay in the amount of Forty Dollars (\$40.00) per twenty-four (24) hour period on scheduled work days and Forty-five Dollars (\$45.00) per twenty-four (24) hour period on scheduled days off.

(2) Employees who have been assigned mutual aid law enforcement duties shall be paid for actual hours worked pursuant to Article 2 and Article 3. During periods of stand-down (rest periods) allowing for five (5) or more hours of uninterrupted sleep time, employees will receive on-call pay, not to exceed Thirty Dollars (\$30.00) per twenty-four (24) hour period when housed in a "home-like environment" as defined by the Fair Labor Standards Act.

(3). On-call employees in the Sheriff's Department may only be contacted for the purpose of determining whether they are to return to active duty, not for the purpose of soliciting phone advice beyond a de minimus amount from the employee. On-call employees in the Sheriff's Department or Probation Department who receive a phone call or series of phone calls that exceeds seven and one half (7.5) minutes shall be rounded up to fifteen (15) minutes and shall be compensated at the appropriate hourly rate on such phone calls that do not require an employee to report to the work site. Calls in excess of 15 minutes will be compensated for the total amount of time on the call, in 15 minute increments rounding up for 7.5 minutes or more and rounding down for 7.4 minutes or less. Calls of less than seven and one half minutes shall not be compensated.

## **Section H. Call Back**

When an employee returns to active duty and the work station at the request of the Department Head after said employee has been released from active duty and has left the work station, said employee shall be entitled to call-back compensation.

Special tours of duty scheduled in advance (24 hour notice) or when an employee is called back within one (1) hour contiguous to the beginning of a scheduled tour of duty are not call-back hours for purposes of this Article. An employee need not be assigned standby duty to be entitled to receive callback compensation.

All time actually worked shall be considered as time actually worked for purposes of computing overtime, provided that an employee shall be guaranteed a minimum of three hours time worked.

In addition, attendance at meetings on off-duty time, which have been scheduled at least two weeks in advance, and for which the employee has been directed to attend, shall be compensated as overtime, as provided by County policy. The call-back provisions shall not apply.

## **ARTICLE 4. HOURS**

### **Section A. Standard Tour of Duty and Hours**

The Department Head shall establish the number of hours and shifts for all personnel in his/her discretion. A regularly scheduled tour of duty, which commences before midnight and ends the following day, shall be reported for payroll purposes as time worked for the day in which the tour of duty began. Subject to Department needs, the Department will endeavor to provide thirty days notice in the event of any scheduling changes.

### **Section B. Shift Selection**

For both Sheriff's Custody and Sheriff's Field Operations Divisions there shall be posted a schedule for shift selection two (2) times annually (December and June), which shall provide for selection by shifts according to seniority. The Sheriff's Custody and Sheriff's Field Operations Divisions shall start their new shifts on the same date and end their shifts on the same date. New shifts shall begin on the first day of a new pay period.

Shift selection shall occur twice per year for Patrol and Jail Deputies. Shift selection for Patrol and Jail Deputies, as well as Dispatch and Booking Clerks, will be by seniority with no mandatory requirement to change shifts. Notwithstanding that general rule, persons "stuck" on a particular shift for two straight years without the ability to select another shift may bump the next higher person in terms of seniority to attain one rotation on a different shift.

**Sheriff's Custody Division:** Each shift (Day, Grave,) shall have a minimum of one (1) Jail Sergeant and one (1) female Jail Deputy Sheriff, and where possible one (1) male. For the purpose of this section a shift is the combination of start and stop times combined with the personnel assigned to staff a particular time period of the jail. Not all employees assigned to a shift will have the same start/stop times.

Shift start and stop times may vary according to operational needs as determined by the Department Head.

**Sheriff's Field Operations:** Field Corporals shall be assigned at the discretion of the Sheriff to meet the training needs of the department.

### **Section C. Temporary Shift Adjustments**

In cases where unforeseen circumstances causes reduced staffing that will not allow for the delivery of services, the Sheriff, Probation Chief or Juvenile Detention Facility Superintendent may adjust work schedules on a temporary basis to meet the needs of the Department for up to 90 days. Subject to Department needs, the Department will endeavor to provide seven (7) days' notice in the event of any scheduling changes.

### **Section D. Modified Duty**

Any employee, who has been injured, may be allowed or directed, upon certification by a health care provider, to return to work in a "Modified Duty" status as provided by Section 4.5 of the current Tuolumne County Americans with Disabilities Act (ADA) Policy Manual, provided there is modified duty work available.

No benefit or right conferred to members of the DSA under this Memorandum of Understanding shall be negated or superseded by any reasonable accommodation under the ADA. The parties may mutually agree to consider modifying provisions of the agreement on a case by case basis.

### **Section E. Flexible Work Schedule**

Flexible work hours during the employees' standard tour of duty will be allowed only through the use of the "CONTRACT TO WORK FLEXIBLE WORK SCHEDULE." A sample copy of the CONTRACT TO WORK FLEXIBLE WORK SCHEDULE is attached hereto as Attachment "A". Department heads have the exclusive authority to set Departmental policy regarding the starting and stopping of work hours for employees working a flexible work schedule. This Flexible Work Schedule does not apply to employees such as Deputies assigned to the Courts or Juvenile Hall staff who must work a regularly defined schedule.

### **Section F. Job Sharing**

The County will consider the request of an employee in a permanent position who desires to share his/her job with another qualified employee or eligible person in the same classification. Jobs may be shared, with the approval of the Department Head, on an hourly or daily basis provided that the combined total scheduled hours does not exceed more than 80 hours per pay period. An employee who works less than forty (40) hours per pay period shall be not eligible to receive any benefits for which the County pays an insurance premium or membership in the retirement system. Should both employees be scheduled for forty (40) hours each pay period, both employees shall assume responsibility for the payment of one-half (1/2) of their insurance premium; provided, however, that one (1) employee may elect to waive coverage under the insurance program. All other benefits for job sharing employees shall be as provided in the appropriate Article on a pro-rated basis based upon a total eighty (80) hour pay period.

Each employee shall be notified in writing by the appointing authority at the time of appointment and such notification will clearly define the benefits to which each employee is entitled. Work schedules for job sharers shall be approved in advance by the Department Head with a minimum one-week notice for scheduled changes. In the event that one employee terminates, cancels participation or is

on leave of absence the remaining employee shall assume the position on a full-time basis until a replacement is available.

## **ARTICLE 5. OVERTIME**

### **Section A. Policy**

It is the policy of the County of Tuolumne to discourage overtime except when necessitated by abnormal or unanticipated workload situations. It is the responsibility of the Department Head to arrange for the accomplishment of workload under his/her jurisdiction within the normal tour of duty of employees. Each department shall keep complete and accurate records of all overtime earned in every pay period. The County has the right to require overtime to be worked as necessary. Prior to requiring overtime, when possible, the Department Head or designee shall solicit qualified volunteers from within the department. To the extent possible, voluntary overtime will be distributed amongst qualified employees within the department based on seniority. Mandatory overtime shall be by inverse seniority.

Due to the specialized assignments within the Probation Department, overtime may not be able to be assigned based on seniority considerations.

### **Section B. Definition**

Overtime under this MOU (MOU overtime) shall be hours worked outside an employee's regular work schedule. Overtime under the Fair Labor Standards Act (FLSA) shall be hours worked in excess of the designated FLSA workweek or work period as specified in Section E.

Employees shall be responsible to report and record their overtime on a daily basis at the conclusion of each shift. Overtime shall be reported in increments of full fifteen (15) minutes and is non-accumulative and non-payable in units of less than fifteen (15) minutes. Overtime shall not affect leave accruals. Mandated or forced overtime shall be paid at time and a half regardless of whether the employee has taken leave during that work period. All overtime must be approved by the Department Head or authorized representative.

### **Section C. Overtime Pay and Compensatory Time Off**

Any employee authorized by the Department Head or authorized representative to work overtime shall be compensated at premium rates, i.e. one and one-half (1½) times the employee's regular hourly rate of pay. With the approval of the Department Head, overtime may be compensated as compensatory time off (CTO). CTO shall be credited at time and one-half. No more than forty (40) hours shall be accrued. When the employee reaches the forty (40) hour maximum, additional overtime worked shall be compensated in cash. Within any pay period if an employee first draws down his or her CTO balance, then additional hours may be accrued until the forty (40) hour maximum is reached.

Employees shall be permitted to use CTO within a reasonable period after making the request, as long as the request does not unduly disrupt department operations. Undue disruption of the operation of the Department shall not be based solely on the cost of backfilling the position with overtime. To minimize the disruption on department operations, employees shall request CTO at least 24 hours in advance of the scheduled duty day. Requests made with less than 24 hours' notice may be granted on a case-by-case basis. Compensatory time off may be taken at the request of the employee and with the approval of the Department Head or designee. Compensatory time off will be

taken in straight time hours. Prior to the transfer and/or promotion of an employee, all compensatory time off shall be taken or paid at the employee's then current base hourly rate.

#### **Section D. Court Duty On Day Off**

If an employee is called to court on his/her day off and the proceeding is canceled without the employee being given at least twelve (12) hours advance notice of the cancellation, or the employee is not needed as a witness, the employee shall receive a minimum of three (3) hours premium pay at one and one half times his/her regular hourly rate of pay.

#### **Section E. FLSA Workweek/Work Period**

Except as otherwise stated in this subsection, the designated 7-day/40 hour FLSA workweek for represented employees is 12:01 a.m. Sunday to 12:00 p.m. (midnight) the following Saturday. Department Heads may modify this workweek with the expressed approval of affected employee(s) in order to facilitate flexible work hours.

For all sworn classifications represented by the DSA, the FLSA work period is a 28 day/171 hour FLSA work period under 29 U.S.C. section 207(k) and 29 C.F.R. section 553.230 ("7(k) work period"). This 7(k) work period does not affect a sworn employee's right to receive overtime under this labor contract for hours worked outside an employee's regular work schedule as set forth in Section B.

For all Dispatcher classifications represented by the DSA, the FLSA work period is a six (6) month/1,040 hours FLSA work period under 29 U.S.C. section 207(b) ("7(b) work period") for which FLSA overtime is required for hours actually worked in excess of 1,040 in the six (6) month work period, or for hours worked in excess of twelve (12) in a day. This 7(b) work period does not affect an employee's right to receive overtime under this labor contract for hours worked outside an employee's regular work schedule as set forth in Section B.

### **ARTICLE 6. RETIREMENT**

Effective May 4, 2015, all Tier One and Tier Two employees shall contribute 6.25% of the employer's share of cost.

**(1) Tier One: Employees hired on or before March 12, 2011.** The County shall provide the 2% at 55 retirement program through the Public Employees' Retirement System (PERS) for "miscellaneous" (non-public safety) employees. The County shall provide the 3% at 50 retirement program through the Public Employees' Retirement System (PERS) for "public safety" employees. In light of the new contribution toward employer cost, the County will continue to pay the employee contribution of 7% for miscellaneous and 9% for safety employees and report the value of the employer paid member contributions (EPMC) to PERS as compensation

**(2) Tier Two: Employees hired on March 13, 2011 through December 31, 2012 shall be covered by the following PERS retirement plans:**

Miscellaneous formula shall be 2% at 60

Safety formula shall be 2% at 50

Retirement shall be based on the highest 36 months of employment.

In light of the new contribution toward employer costs, the County will pay the employee contribution of 7% for miscellaneous and 9% for safety employees, however, full pay and reporting value is not available for Tier 2 employees.

**(3) Tier Three: Employees hired on or after January 1, 2013 shall be covered by the following PERS retirement plans:**

Miscellaneous formula shall be 2% at 62

Safety formula shall be 2.7% at 57

Retirement shall be based on the highest 36 months of employment.

Miscellaneous and safety employees shall pay the percentage of normal cost as determined by CalPERS.

NOTE: The County's PERS Safety plan provides an additional \$2,000 death benefit

**ARTICLE 7. POST AND EDUCATION INCENTIVES**

**I. Sworn Law Enforcement Personnel - P.O.S.T. and Educational Incentives**

**(1) Program Objective.** The objective of this program is to broaden law enforcement personnel through experience, job related specialized training, and academic courses in order to establish and maintain high professional standards of law enforcement and educational achievement.

**(2) Eligibility.** This program is limited to all full-time sworn law enforcement personnel of the Tuolumne County Sheriff and District Attorney Departments.

**(3) Compensation.** Sworn law enforcement personnel who hold a Bachelor's Degree, a Master's Degree, an Intermediate, Advanced, Supervisory or Management P.O.S.T. Certificate as described in the regulations of the Commission of Peace Officer Standards and Training (P.O.S.T.) and who are employed by the Tuolumne County Sheriff or District Attorney Departments on a full-time basis shall receive incentive pay up to a maximum amount of 20% as follows:

(a)	Intermediate P.O.S.T. Certificate	3% differential
(b)	Bachelor's Degree	5% differential
(c)	Master's Degree	5% differential
(d)	Advanced P.O.S.T. Certificate	7% differential
(e)	Supervisors P.O.S.T. Certificate	2.5% differential
(f)	Management P.O.S.T. Certificate	2.5% differential

**(4) Subsequent Eligibility.** Sworn law enforcement personnel who have at the time of hire or obtain during their employment the above degrees or certificates shall be eligible to participate in the Incentive Program. There shall be three eligibility dates for entry into the program: date of hire, July 1 or January 1. Payment of the differential shall begin on either the date of hire or the first day of the pay period following the eligibility date. An application for Incentive Pay must be submitted and approved by the Department Head and the County Administrator before payment can be made.

**(5) Administration.**

- (a) Incentive pay will commence only after the degree or the certificate has been issued.

- (b) The employee is responsible for initiating an application for the degree or certificate to establish eligibility, notifying the Department Head in writing at least 3 months prior to the award of the degree or certificate to be qualified for incentive pay on the applicable eligibility date, and providing supporting documents, i.e. P.O.S.T. Certificates or degree. Failure to notify the Department Head 3 months prior to the award of the degree or certificate shall delay the award of the incentive pay to the following eligibility date (e.g. July or January).
- (c) The Department Head is responsible for the administration of the Incentive Pay Program and submitting the supporting documents to the Human Resources Department.
- (d) The Human Resources Department is responsible for filing the supporting documents in the employee's personnel file, and authorizing the Auditor-Controller to make payments or changes in payment status.

## **(6) General Provisions.**

- (a) The program provides a stipulated dollar amount of gross pay over and above the base salary range upon achievement of specific qualifications and requirements set forth herein.
- (b) An employee may be eligible for P.O.S.T. Incentives and the Educational Incentives; however, the differentials received shall not exceed 20%.

## **II. Non-Sworn Law Enforcement Personnel - POST and Educational Incentives**

### **Section A. Dispatch POST Incentives**

**(1) Program Objective.** The objective of this program is to broaden law enforcement personnel through experience, job related specialized training, and academic courses in order to establish and maintain high professional standards of law enforcement and educational achievement.

**(2) Eligibility.** This program is limited to all full-time Dispatchers employed in the Tuolumne County Sheriff's Department.

**(3) Compensation.** Dispatchers who hold either a Dispatch Intermediate or a Dispatch Advanced P.O.S.T. Certificate as described in the regulations of the Commission of Peace Officer Standards and Training (P.O.S.T.) and who have been employed by the Tuolumne County Sheriff's Department on a full-time basis and have completed their probationary period shall receive incentive pay as follows:

- |  |                   |
|--|-------------------|
| (a) Dispatch Intermediate P.O.S.T. Certificate | 2.5% differential |
| (b) Dispatch Advanced P.O.S.T. Certificate     | 5% differential   |

**(4) Subsequent Eligibility.** Dispatchers who obtain either certificate shall be eligible to participate in the Dispatch POST Incentive Program. After completion of the probationary period, there shall be two eligibility dates for entry into the program: July 1 or January 1. Payment of the differential shall begin on the first day of the pay period following the eligibility date. An application for Dispatch POST Incentive Pay must be submitted and approved by the Department Head and the County



Administrator before payment can be made.

**(5) Administration.**

- (a) Dispatch POST incentive pay will commence only after the Intermediate or Advanced Certificate has been issued.
- (b) The employee is responsible for initiating an application for Dispatch POST Incentive Pay to establish eligibility, to notify the Department Head in writing at least 3 months prior to the award of the degree or certificate to be qualified for incentive pay on applicable eligibility date, and to provide supporting documents, i.e. Dispatch POST Certificates. Failure to notify the Department Head 3 months prior to the award of the degree or certificate shall delay the award of the incentive pay to the following eligibility date (e.g. July or January).
- (c) The Department Head is responsible for the administration of the Dispatch POST Incentive Pay Program and submitting the supporting documents to the Human Resources Department.
- (d) The Human Resources Department is responsible for filing the supporting documents in the employee's personnel file, and authorizing the Auditor-Controller to make payments or changes in payment status.

**(6) General Provisions.**

- (a) The program provides a stipulated dollar amount of gross pay over and above the base salary range upon achievement of specific qualifications and requirements set forth herein.
- (b) An employee may be eligible for either the Dispatch POST Incentive or the Non-Sworn Educational Incentive to a maximum of 5%; however, no employee may receive both Dispatch POST Certificate and non-sworn educational incentives.

**Section B. Probation and Non-Sworn Educational Incentive**

**(1) Program Objective.** The objective of this program is to broaden personnel through academic courses in order to establish and maintain high professional standards and educational achievement.

**(2) Compensation.** Non-Sworn employees of this unit who hold either a Bachelor's or Master's degree from an accredited college or university and who have completed their probationary period shall receive educational incentive pay as follows:

- (a) Non-Sworn Bachelor's Degree: 2.5% differential\*
- (b) Non-Sworn Master's Degree: 5%

\*For Deputy Probation Officers a Bachelor's Degree is a minimum qualification and the differential was built into their base salary in 2006.

**(3) Subsequent Eligibility.** Non-sworn employees of this unit who have completed their probationary period and have at the time of employment or obtain during their employment either a Bachelor's or Master's Degree shall be eligible to participate in the Non-Sworn Educational Incentive Program. After completion of the probationary period, there shall be two eligibility dates for entry into

the program: either July 1 or January 1. Payment of the differential shall begin on the first day of the pay period following the eligibility date. An application for Non-Sworn Educational Incentive Pay must be submitted and approved by the Department Head and the County Administrator before payment can be made.

#### **(4) Educational Incentive Administration.**

- (a) Educational incentive pay will commence only after the degree has been issued.
- (b) The employee is responsible for initiating an application for Educational Incentive Pay to establish eligibility, to notify the Department Head in writing at least 3 months prior to the award of the degree or certificate to be qualified for incentive pay on applicable eligibility date, and to provide supporting documents, i.e. diploma or degree. Failure to notify the Department Head 3 months prior to the award of the degree or certificate shall delay the award of the incentive pay to the following eligibility date (e.g. July or January).
- (c) The Department Head is responsible for the administration of the Educational Incentive Pay Program and submitting the supporting documents to the Human Resources Department.
- (d) The Human Resources Department is responsible for filing the supporting documents in the employee's personnel file, and authorizing the Auditor-Controller to make payments or changes in payment status.

#### **(5) General Provisions.**

- (a) The program provides a stipulated dollar amount of gross pay over and above the base salary range upon achievement of specific qualifications and requirements set forth herein.
- (b) An employee may be eligible for either the Dispatch POST Incentive or the Non-Sworn Educational Incentive to a maximum of 5%; however, no employee may receive both Dispatch POST Certificate and non-sworn educational incentives.

### **ARTICLE 8. UNIFORM ALLOWANCE**

#### **Section A. Uniform Allowance**

Sworn Deputy Sheriffs, Corporals, Detectives, and Sergeants and uniformed Jail personnel shall be receive a uniform allowance in the amount of One Thousand Dollars (\$1,000.00) and Probation High Risk Supervision Team Field Officers, Juvenile Correctional Officers and Community Services Officers shall receive a uniform allowance of Five Hundred Dollars (\$500.00) per year and shall be paid in equal amounts each pay period. Employees on non-industrial disability or a leave of absence are not eligible to receive the allowance while on such leave. Once returned to full duty, the allowance will be restarted on date of return to work. The uniform allowance is to be used for the purchase and maintenance of prescribed duty uniforms and uniform accessories.

## **Section B. New Employees**

The County agrees to advance One Thousand Dollars (\$1,000.00) to all newly hired Sworn Deputy Sheriffs, Corporals, Detectives, and Sergeants and uniformed Jail personnel at their date of employment provided that if the employee leaves before the end of one full year he/she shall have a prorated amount for that portion of the year he/she did not work, deducted from his/her final paycheck. The County agrees to advance Five Hundred Dollars (\$500.00) to all newly hired Probation High Risk Supervision Team Field Officers, Juvenile Correctional Officers and Community Service Officers at their date of employment provided that if the employee leaves before the end of one full year he/she shall have a prorated amount for that portion of the year he/she did not work, deducted from his/her final paycheck.

## **Section C. Personal Property**

All personal property lost or damaged in the line of duty shall be either replaced or reimbursed for by the County provided that there is no evidence of negligence on the part of the employee with respect to the lost or damaged personal property.

## **Section D. Soft Body Armor**

The County mandates the wearing of soft body armor for selected employees in the Sheriff's Department, Probation Department and District Attorney's Office. The DSA recognizes the value of this safety equipment as well as the tremendous cost associated with its purchase. Such selected employees shall be determined by the County in consultation with the DSA. The County will provide the body armor. The employee shall:

- (1) Wear the soft body armor at all times while in uniform performing peace officer duties; and
- (2) Wear the soft body armor, while not in uniform, during the enforcement of search warrants, arrest warrants, or performing court or VIP security, SWAT, stake out functions, or other high risk assignments as determined by the incident commander or supervisor.
- (3) Deputy Probation Officers and Senior Deputy Probation Officers shall wear the soft body armor during the enforcement of probation conditions involving searching of probationer's residences, while performing field supervision or other high risk assignments as determined by the Chief Probation Officer or his/her designee.

Soft body armor damaged by gunfire or a cutting instrument, in the line of duty, shall be replaced immediately at County expense.

## **ARTICLE 9. HEALTH AND WELFARE**

### **Section A. Health and Welfare**

The County agrees to pay for blood tests for up to 22 DSA members (15 from the Sheriff's Department, five from Probation and two from the District Attorney/Social Services at the annual Health Department Community Health Fair. Requests for payment must be made through the Undersheriff, the Chief Probation Officer (or designee) or appropriate supervisor and will be approved on a first come, first served basis.

## **Section B. Life Insurance**

The County will provide a term life insurance policy for each represented employee with a benefit amount of Fifty Thousand Dollars (\$50,000.00).

## **Section C. Cafeteria Plan**

### **I. Flex Credit Amounts**

Employees in permanent positions budgeted to work a minimum of one hundred and thirty (130) hours per month will be eligible to participate in the Cafeteria Plan described in this Article at the beginning of the first month following their date of employment and will be eligible for one hundred percent (100%) of the below Cafeteria Plan flex credit amounts. Each such employee may allocate the employee's available flex credits to the Cafeteria Plan benefit options subject to the rules in Subsection B described below.

Permanent employees working less than one hundred and thirty (130) hours per month are not eligible to participate in the Cafeteria Plan. Employees hired on or before the date the Board of Supervisors approves this MOU, however, who are: (1) in half-time (1/2) permanent positions scheduled to work a minimum of forty (40) hours per pay period, and (2) currently enrolled in the County health plans, are eligible for fifty percent (50%) of the below Cafeteria Plan flex credit amounts, and are limited to eligibility for enrollment in the County's medical, dental and vision insurance plans. Employees working less than one hundred and thirty (130) hours per month who waive health coverage cannot receive any portion of their Cafeteria Plan flex credits in cash. Those employees will forfeit any unused, unallocated flex credit amounts.

If a Relief employee becomes eligible for health insurance as a result of his or her status as "full-time" within the meaning of the Affordable Care Act, the County will pay 100% of the employee-only premium for the Relief employee's medical insurance while eligible and enrolled. The County will use a measurement period of one (1) year to determine eligibility for Relief employees, and eligibility will require the Relief employee to work an average of 30 hours per week during the measurement period. Eligible relief employees who enroll in two-party or family coverage will be responsible for paying the difference in premium costs. Relief employees who are determined to be eligible for medical coverage are ineligible to participate in the County's dental and vision insurance plans. No cash in lieu of medical insurance is available for eligible Relief employees who waive coverage.

Permanent and Relief employees who are not in paid status equivalent to at least eighty percent (80%) of their budgeted full time equivalent (FTE), with the exception of an employee who is on unpaid leave pursuant to the Family Medical Leave Act and/or Worker's Compensation, will not receive their Cafeteria Plan flex credit amounts. The County will deduct the full cost of their elected health care insurance premiums from their paycheck.

The available Cafeteria Plan flex credit amounts are as follows:

<b>Coverage Level</b>	<b>Monthly Flex Credit Amount</b>
Non-Exempt Single Employee	\$1,000.00*
Employee +1	\$1,469.00**
Employee +2	\$1,869.00**
Non-Exempt Waived Employee	\$100.00

\*Regardless of the employee's elected coverage level, the first \$900 of any eligible non-exempt single employee's Cafeteria Plan flex credit amount constitutes a "health flex contribution" within the meaning of the ACA: it may not be received in cash or allocated to any Cafeteria Plan benefit option other than the County's medical, dental, and vision insurance benefits. The remaining \$100 constitutes a "non-health flex credit" which may be used to pay for other cafeteria plan options or taken as cash.

\*\*Regardless of the employee's elected coverage level, the first \$1,000 of any eligible non-exempt employee +1 or employee +2 Cafeteria Plan flex credit amount constitutes a "health flex contribution" within the meaning of the ACA: it may not be received in cash or allocated to any Cafeteria Plan benefit option other than the County's medical, dental, and vision insurance benefits.

Non-exempt employees waiving health benefits who meet the conditions for receiving a monthly flex credit amount, described in Section B., below, will be entitled to the above non-health flex credit which may be used to pay for other cafeteria plan benefit options or taken as cash.

If any cafeteria plan monthly flex credit amount established above results in the County's group health coverage no longer meeting the affordability criteria as established in the ACA or by IRS guidance, the parties agree to meet and confer over the impact of said result.

## **II: Descriptions of Cafeteria Plan Benefit Options**

1. **Medical, Dental and Vision.** An eligible employee must first allocate his or her available monthly flex credit amounts to medical, dental, and vision insurance premium costs. All employees who do not elect to waive the County's coverage must enroll in medical, dental, and vision insurance coverage at the employee-only, two-party or family coverage level. Eligible employees, including employees enrolled in a government-sponsored program or another group health insurance plan, may request a waiver of this provision from the Human Resources Office. However, the County will only provide the monthly flex credit amount designed above to waived employees who certify in writing (in the form that the County requires) that the employee and all of his or her tax dependents are enrolled in minimum essential coverage (as defined under the ACA) in the form of other minimum value group health coverage. Employees enrolled in MediCare and TriCare are specifically excluded from receiving a waived cafeteria allowance. Eligible employees must continue to maintain and certify that other such health coverage is in place annually during open enrollment to receive the monthly flex credit amount for waived employees for the next following plan year. Should an employee who has obtained a waiver of this provision lose the alternative coverage, the employee must notify the Human Resources Office within five (5) workdays and enroll in a County provided health plan, upon which the newly enrolled employee will become eligible for flex credits in accordance with this section. To enroll in a County health plan outside of the open enrollment period, the employee must show proof of having lost other coverage. Voluntarily dropping an alternative plan due to rate increases or changes in benefits is not acceptable for mid-year enrollment.
2. Employees who waive medical insurance may elect to participate in dental or vision insurance. If an employee elects to enroll in both vision and dental insurance, enrollment in these plans must be at the same level (e.g., dental and vision both at family level, and not dental at two-party level with vision at family level). If the employee is eligible for the non-exempt waived employee monthly flex credit designated above, the County will deduct the premium cost from the waived Cafeteria Plan flex credit amount. Any remaining flex credit amounts may be allocated by the employee to other Cafeteria Plan benefit options, including cash. If the

employee is not eligible for the non-exempt waived employee monthly flex credit designated above, the County will deduct the full cost of the elected dental and/or vision insurance premiums from the employee's paycheck.

3. **Child Care.** This option provides a per pay period allowance toward payment of incurred child care expense. The County agrees to provide this option, in accordance with applicable tax laws, allowing employees to pay child care expenses to designated licensed providers. Additional providers may be added only upon employee request and subject to licensing approval. The number of designated providers shall not exceed ten (10) and participating employees must execute a release of liability to the County.
4. **Cash.** Cash will be paid as taxable compensation.

#### **Section D: Section 125 - Premium Conversion Plan**

The County agrees to provide a premium conversion plan that takes advantage of current tax regulations allowing employees to pay their share of medical, dental, and vision premiums on a pre-tax basis. The County reserves the right to terminate this plan if it creates an additional economic obligation on the part of the County, subject to Tuolumne County DSA's right to meet and confer on the impact of such a decision.

#### **Section E: Reopeners**

The County and DSA agree to meet and confer annually to discuss insurance rate increases, changes in the law (e.g. ACA, IRS guideline, etc), or to discuss the impact of leaving PERS health. Meetings to discuss rate increases will be held as close as possible to the date PERS rates are announced. Meets to discuss changes in the law will be held as close as possible to the date of said change.

### **ARTICLE 10. LEAVE PROVISIONS**

#### **Section A. Sick Leave**

(1) **Definition.** Sick leave with pay is an insurance program provided by the County for employees in permanent positions to be granted in circumstances of adversity to promote the health of the individual employee. Sick leave is defined to mean the authorized absence from duty of an employee because of physical or mental illness, injury, pregnancy, confirmed exposure to a serious contagious disease or for a medical, optical, or dental appointment.

(2) **Family Sick Leave.** Accrued sick leave may be used for attendance upon the members of the employee's immediate family.  
who are defined as spouse, son, daughter, mother, father, sister, brother, mother-in-law, father-in-law, grand-parent, grand-parent in-law, stepson, stepdaughter, foster child, foster parent, in loco parentis, grandchild, registered domestic partner or any relative living with the family.

(3) **Accumulation.** Employees shall accrue sick leave for each payroll period completed, prorated on the basis of ninety-six (96) hours per year, or 3.69 hours per pay period. Sick leave shall be available for use on the first day following the pay period in which it is earned. Employees in permanent positions budgeted less than eighty (80) hours per pay period or job shared positions shall receive sick leave accumulation on a pro-rata basis. Sick leave shall be accumulative without

limitation.

**(4) Compensation.** Sick leave shall be compensated at the employee's base hourly rate of pay. The minimum charge against accumulated sick leave shall be fifteen (15) minutes. When an employee is transferred from one department to another, the transfer shall have no effect on the employee's sick leave accruals.

**(5) Administration.**

**(a) Investigation.** It shall be the responsibility and duty of each Department Head to investigate each request for sick leave and to allow sick leave with pay where the application is determined to be proper and fitting.

**(b) Notice of Sickness.** In twenty-four (24) hour departments, the Department Head or designee must be notified, if possible, at least two (2) hours prior to the start of the employee's scheduled tour of duty of a sickness on the first day of absence. In other departments, the Department Head or designee must be notified within one-half (1/2) hour after the start of the employee's scheduled tour of duty of a sickness on the first day of absence. It is the responsibility of the employee to keep the Department Head or designee informed as to continued absence beyond the first day for reasons due to sickness or occupational disability. Failure to make such notification may result in denial of sick leave with pay.

**(c) Review.** A Department Head may review and determine the justification of any request for sick leave with pay and may, in the interest of the County, require a medical report by a doctor to support a claim for sick leave pay.

**(d) Proof.** The employee shall provide a doctor's certificate or other adequate proof in all cases of absence due to illness or injury after an absence of three consecutive shifts when requested by the Department Head. The Department Head may require said documentation prospectively at any time when an employee has been placed on sick leave restriction.

**(e) Improper Use.** Evidence substantiating the use of sick leave for willful injury, gross negligence, intemperance, trivial indispositions, instances of misrepresentation, or violation of the rules defined herein will result in denial of sick leave with pay and shall be considered as grounds for disciplinary action including termination.

**(6) Use of Other Leaves.** Except as required by the Family and Medical Leave Act, an employee who has exhausted their sick leave and needs additional time off for an illness or injury, must exhaust all other available leave balances to be eligible for leave without pay.

**(7) Coordination of Benefits.** Employees shall be entitled to fully coordinate their sick leave benefits with their Long Term Disability Insurance coverage and/or Workers' Compensation benefits.

**(8) Sick Leave Payoff.** At termination of employment, an employee shall be compensated for accrued sick leave. The rate of compensation is the full amount of the employee's current hourly rate of pay for the first two hundred forty (240) hours and fifty percent (50%) for all additional hours of sick leave accrued. If the employee is retiring the remaining fifty percent of sick leave not taken as cash, may be applied towards PERS service credit. Employees hired on or after January 2, 1988, shall not be entitled to sick leave payoff until they have completed three (3) years of continuous service.

If retiring, employees may convert accrued sick leave to PERS service credit pursuant to PERS regulations. Or, apply some sick leave credits to PERS and convert some sick leave credits to compensation as described above.

Upon retirement of an employee, the County shall make contributions into the Retiree Medical Trust in an amount equal to (X%) of the employee's sick leave cash out. That amount will be determined at a later date.

**(9) Sick Leave Conversion.** During the months of October and April each year, an employee with a minimum of five hundred and forty (540) hours of accrued sick leave may convert two (2) hours of sick leave accrual for one (1) hour of vacation leave accrual; provided such conversion does not cause the employee to exceed vacation accrual rates as specified in Article 11, Section C herein. An employee choosing this option must convert a minimum of forty (40) hours of sick leave accrual and maintain a minimum of five hundred (500) hours of sick leave accrual on the books.

**(10) Sick Leave Used for Deferred Compensation.** During the month of January of each year, an employee with a minimum of one thousand (1,000) hours of accrued sick leave may convert two (2) hours of sick leave accrual for the cash equivalent of one (1) hour at the employee's rate of pay. This pay-off of accrued sick leave shall be placed in a qualified deferred compensation account. An employee must convert sick leave accruals in five hundred (500) hour increments and shall maintain a minimum of five hundred (500) hours of sick leave accruals on the books.

## **Section B. Holidays**

### **Employees working 24/7 shifts**

**(1) Fixed Holidays.** Employees in this Unit (including detectives and TNT) shall not be entitled to fixed holidays, Departments that normally observe Monday through Friday business hours shall be closed on those fixed holidays prescribed in the Tuolumne County Code. Employees assigned to those departments shall be required to utilize accrued holiday or utilize leave without pay to account for their time on those days the department is closed.

**(2) Floating Holidays.** Employees in permanent positions shall accrue sixty-four (64) hours floating holiday time during the pay period in which July 4 occurs. Employees hired after July 4, but before the following January 1, shall accrue four and ninety-two hundredths (4.92) hours for each full pay period between date of hire and January 1. Employees who terminate after July 4, but before the following January 1 shall be required to reimburse the County for floating holiday time accrued in excess of that which would have been accrued had the employee earned such time at the rate of four and ninety-two hundredths (4.92) hours for each full pay period.

Employees in permanent positions shall accrue forty (40) hours floating holiday time during the pay period that January 1 falls. Employees hired after January 1, but before the following July 4, shall accrue three and eight hundredths (3.08) hours for each full pay period between date of hire and July 4. Employees who terminate after January 1, but before the following July 4 shall be required to pay back the County for floating holiday time accrued in excess of that which would have been accrued had the employee earned such time at the rate of three and eight hundredths (3.08) hours for each full pay period.

**(3) Floating holidays accrued shall be available for use in the pay period in which they are accrued, with the approval of the Department Head. Employees shall be compensated for any accrued holiday time at the then current base hourly rate.**



- (4) Employees in permanent positions budgeted less than eighty (80) hours per period or job-shared positions shall receive floating holiday accruals on a pro-rata basis.
- (5) Effective the first pay period in December and the pay period preceding July 4, an employee shall be paid for any accrued holiday time, provided that such pay off shall not be considered as time worked for purposes of computing overtime.
- (6) Employees may request accrued holiday time off at any time. The request must be approved or denied in writing within five (5) workdays, and any denial shall be reasonable. If the request is approved at least ten (10) work days prior to the scheduled time off, it shall be guaranteed unless the following emergency situations occur: a) Mandatory court appearance; b) Civil disturbances; or c) Natural disaster.

### **Employees working normal business hours**

1. **Fixed Holidays.** All employees in permanent positions shall be entitled to the following fixed holidays:
  - New Year's Day
  - Presidents' Day
  - Independence Day
  - Veterans' Day
  - Day after Thanksgiving Day
  - Christmas Day
  - Martin Luther King, Jr. Day
  - Memorial Day
  - Labor Day
  - Thanksgiving Day
  - Day before Christmas
2. **Floating Holiday.** Employees in permanent positions shall be entitled to a total of sixteen (16) hours floating holiday time provided that the employee is on the payroll during the entire pay period in which such floating holiday time is to accrue. "Entire pay period" shall mean that an employee must have been hired prior to or at the start of the pay period and not have separated prior to the end of the pay period and was paid for at least one-half ( $\frac{1}{2}$ ) of the accountable hours, or was coordinating benefits utilizing sick leave and/or vacation with disability or workers compensation benefits and utilized at least 20 hours of accrued leave during the two week pay period. Sixteen (16) hours floating holiday time shall be accrued during the pay period in which July 4 falls.

Floating holidays accrued shall be available for use the first day following the pay period in which they are accrued, with the approval of the Department Head.
3. Employees in permanent positions budgeted less than eighty (80) hours per pay period or job-shared positions shall receive fixed and floating holiday accruals on a pro-rata basis.
4. If a fixed holiday falls on a Saturday, the preceding Friday will be observed as the fixed holiday. If a fixed holiday falls on a Sunday, the succeeding Monday will be observed as the fixed holiday.
5. Whenever a permanent employee is required to work three (3) hours or less on a fixed holiday or the fixed holiday falls on an employee's regularly scheduled day off, the employee shall accrue, on an hour-for-hour basis, floating holiday time. In the event that a permanent employee is required to work more than three (3) hours, the permanent employee shall accrue eight (8) hours of floating holiday time.

6. Employees must be in a full paid status for a full shift the last scheduled work day before and the first scheduled work day after a fixed holiday to receive holiday pay.
7. Any holiday time accrued in excess of forty-eight (48) hours shall be lost. Upon termination or retirement, employees shall be compensated for any unused accrued holiday time at the then current base hourly rate. Employees who are unable to utilize accrued holiday leave due to work requirements may request a temporary waiver of this provision from the County Administrator.
8. An employee who, by department mandate, is scheduled to work four (4) ten (10) hour days shall be paid for the ten (10) hours they would have been otherwise scheduled to work if a recognized County holiday falls on a scheduled work day. An employee who voluntarily chooses to work a four (4) ten (10) hour day schedule shall only receive eight (8) hours holiday pay if a recognized County holiday falls on a scheduled work day.

### **Section C. Vacation**

The following vacation accrual rates shall be established for permanent employees:

<b>ANNUAL VACATION ACCRUAL RATE</b>		<b>YEARS OF SERVICE</b>
80 hours		0-3
120 hours		4-9
160 hours		10 and above

Employees may not accrue vacation time in excess of twice their annual vacation accrual rate, provided that no employee shall lose vacation time to meet the needs of the service.

The following rules and regulations are established for the administration of vacation benefits:

- (1) All vacation leave must be approved in advance only by the Department Head or designated representative.
- (2) Employees in permanent positions shall accrue, on a pro-rata basis, vacation leave for completed pay periods. Such vacation leave shall be available for use on the first day following the pay period in which it is earned, provided the employee has completed one thousand forty hours (1040) hours of service from the employee's hire date. Employees in permanent positions budgeted less than eighty (80) hours per pay period or job shared positions shall receive vacation leave accumulation on a pro-rata basis.
- (3) No employee shall be permitted to take vacation in advance of accrual.
- (4) The minimum charge against accumulated vacation leave shall be fifteen (15) minutes. Vacation leave shall be compensated at the employee's base hourly rate of pay.
- (5) Employees about to retire, or who are to be laid off, may utilize their accrual prior to the effective date of any such retirement or lay-off. In lieu of such vacation the employee may elect a lump sum payment for accrued vacation time. All other employees shall be paid at their hourly rate of pay for all hours accrued at time of separation from the County.

- (6) When an employee is transferred from one County department to another, said transfer shall have no effect upon employee's vacation benefits.
- (7) Employees may use up to two (2) days of their accrued vacation in any one fiscal year for emergency leave provided that they notify the department authority prior to the start of the working day that the employee would be absent.
- (8) If an employee is promoted, the employee will not sacrifice his/her right to take any scheduled and approved vacation in effect at time of promotion.
- (9) To coincide with shift selection, employees in the Sheriff's Department may request annual vacation leave by seniority two (2) times per year (December and June). Once approved, such leave shall be guaranteed unless the following emergency situations occur: a) mandatory court appearance; b) civil disturbances; and/or c) natural disasters. In addition to the annual vacation selection, employees may request additional accrued leave time at any time. The Department shall make a good faith effort to consider and approve requested leaves of absences based on seniority, considering all of the circumstances. All leave requests may be limited to two (2) employees per day per division.
- (10) In the pay periods in which employees use forty (40) or more hours of vacation, employees may elect to "cash-out" an additional forty (40) hours of vacation time. This option applies only to approved vacations (as defined by Article 11(C)) of forty (40) continuous hours or more, and is available to each employee of this unit only once per fiscal year.
- (11) Shift Swaps: Unlimited shift swaps shall be permitted with 7 days' notice, or less if approved by a lieutenant or higher rank supervisor. There shall be no changes in payment for work performed. Payment is based upon who is scheduled to work. There will be no creation of overtime by shift swapping. The scheduled employee is responsible for obtaining coverage for his/her shift. The County will not be responsible for the banking of any hours. The swap shall be completed within a shift change plus a pay period. Six months after this MOU is approved by the Board of Supervisors, the Sheriff may require a reopener on shift swaps. Shift swaps are made such that the employee who is scheduled to work, but for whom someone substitutes in in his/her place, is paid their regular salary as if they performed the work.

#### **Section D. Bereavement Leave**

Employees in permanent positions shall be entitled to twenty-four (24) hours leave which may be used per occurrence for bereavement due to the death of persons in the immediate family or other members of the household. In addition, a maximum of sixteen (16) hours accrued sick leave may be used per occurrence for qualified bereavement leave.

The immediate family shall be considered as spouse, son, daughter, mother, father, sister, brother, mother-in-law, father-in-law, grand-parent, grand-parent in-law, grand-child, stepson, stepdaughter, step parent, foster child, foster parent of the employee, in loco parentis, or any relative or other person living in the household.

#### **Section E. Family and Medical Leave (FMLA)**

Employees' rights to Family Medical Leave are governed by the County's Family and Medical Leave Policy, and the Family Medical Leave Act (FMLA) and California Family Rights Act (CFRA).

## **Section F. Leave of Absence Without Pay**

**(1) Leaves of Absence.** A leave of absence without pay for a period of not more than thirteen (13) consecutive pay periods may be granted to an employee. A request for such leave must be in writing and requires the approval of the Department Head and County Administrator.

### **(2) Administration of Leave of Absence Without Pay.**

- (a) Request.** Leaves for purposes described above may be granted for periods approved by the Department Head and County Administrator. A request for such leave must be in writing and requires the approval of the Department Head and the County Administrator.
- (b) Return Rights.** Leaves of absence without pay may be granted to a permanent employee either with or without the right to return to classification. At the expiration of leaves without the right to return, the employee must contact the Human Resources Manager for consideration of having his/her name referred for a ninety (90) calendar day period to all job vacancies in the employee's classification for reemployment without examination. If approved, such an employee must be hired within this ninety (90) day period or be terminated. An employee returning to the County after such leave, with or without the right to return, shall retain the seniority that employee had prior to the leave, but will not accrue additional seniority during the period of the leave, and is not guaranteed to return to the same position he/she occupied prior to the leave. Leaves of absence without the right to return may be granted to probationary employees.
- (c) Benefits.** When an employee is on such a leave of absence without pay or without right to return to classification, the employee shall accrue no employee benefits, no seniority, no time toward salary step advancement, and shall pay the full premium of his/her health and welfare program prorated on a daily basis, if coverage is continued by the employee. If health and welfare is dropped during a leave of absence, the employee may be subject to restrictions imposed by the insurance carrier upon return.

## **Section G. Military Leave**

Any employee who is granted a military leave of absence to serve in the Armed Forces of the United States shall have his/her seniority as far as salary steps are concerned continued as if the person had remained on the county payroll. The person shall be reinstated from the military leave of absence at the same step in the salary range that the employee would have been eligible to receive had the employee not been granted the military leave of absence. Military leaves of absence will be governed by the provisions of the Military and Veterans Code of the State of California, Section 395 et seq.

Employees called to extended military leave (not annual training) will have the difference between their total military pay and their County pay continued by the County, in addition to their employee benefits. The employee must cooperate with the County in providing the necessary documentation to determine his/her military pay.

## **Section H. Court Leave**

**(1)** Any employee who is summoned for attendance to any court for jury duty or served with a subpoena to appear as a witness in a civil case in which the County is a party shall be deemed to be on duty and there shall be no loss of salary provided, however, that any jury fees or witness fees received by the employee shall be paid into the County treasury. Employees may keep any mileage reimbursement, unless a County owned vehicle was used for such transportation. This shall not apply to civil grand jury duty, nor shall time spent on a civil grand jury apply towards accruing overtime.

**(2) Return to Work.** Employees are allowed one half (½) hour prior to the beginning of that day's jury duty and one half (½) hour after being released from that day's jury duty for travel to and from the work site. Requests for exceptions may be made to the employee's immediate supervisor. Any work time unaccounted for may be allocated to an employee's earned leave provided, however, the employee obtains the prior approval of their immediate supervisor. In no case shall Court Leave exceed an employee's shift. Requests for exceptions may be made to the Human Resources Manager.

**(3) Work Related Forums Appearances.** Employees appearing in any forum for testimony related to their on the job activities shall be in work status and compensated as described in the various sections of this agreement.

## **Section I. Compulsory Leave**

If in the opinion of the Department Head, employees are unable to perform the duties of their position for physical or psychological reasons, an examination may be required by a physician or other competent authority designated by the Human Resources Manager. The Human Resources Manager shall have the authority to require the employee to be examined by a physician or other competent authority at County expense to determine the employee's fitness for duty. The County shall only request the physician or specialist to communicate whether or not an employee is able to perform the duties of his/her position. Should a comprehensive clinical report be submitted to the County, it shall be returned unread to the physician or specialist. Should the employee wish to dispute the findings/determination of the County's examining authority, he/she may go to a physician or other competent authority of his/her own choosing at the employee's expense.

If the County's examination report finds the employee to be in an unfit condition to perform the duties required of the position, the department head shall have the right to compel the employee to take sufficient leave of absence utilizing any accrued leave balances. If the County's examination report finds the employee to be fit for duty, the employee shall return to work without loss of pay or benefits. When the County's medical authority and that of the employee are in conflict, the County and the employee will mutually select a third medical authority to make a final recommendation. During the course of the examinations, the employee will remain off work, utilizing appropriate available leaves.

An employee in disagreement with the above process may pursue the grievance process outlined in Article 15.

## **Section J. Administrative Leave**

While an employee is under disciplinary investigation, the Department Head, in consultation with the Human Resources Manager, may order an employee off work without reduction in compensation for a period not to exceed eighty (80) work hours. Exception to this provision may be granted by the

County Administrator.

## **Section K. Voluntary Time Bank**

**(1) Eligibility.** Employees in permanent positions, including those on promotional probation, shall be eligible to participate in the Voluntary Time Bank program. To be eligible, an employee must have a verifiable long-term illness or injury, or have a member of the employee's immediate family with a long term illness or injury which results in the employee being requested to take time off from work to care for that family member, and must have exhausted all accrued leave and CTO, or soon will have exhausted all such leave, resulting in the employee being in a no-pay status.

**(2) Notification of Need.** When a Department Head has determined that an employee would benefit from involvement in the County of Tuolumne Deputy Sheriff's Association (DSA) Voluntary Time Bank, the Department Head will notify the Human Resources Office of that employee's name and status. The Department Head will be responsible for notifying County employees of the need for donations. The Department Head will take necessary actions to help ensure that individual employee decisions to donate or not donate to a Time Bank are kept confidential and that employees are not pressured to participate. All donations shall remain confidential.

**(3) Maximum Donation to Recipient.** The maximum time that may be initially donated into the DSA Time Bank in an employee's name is 1040 hours. An additional donation of 1040 hours may be approved; however, there must be a favorable prognosis for recovery or a predictable date of return to work. There shall be a donation limit of 2080 hours in any individual's name.

**(4) Donation of Time.** An employee may donate vacation leave only in increments of four (4) hours to the DSA Time Bank in the name of a specific employee. An employee may donate vacation leave only if his or her own total accrued leave balance is in excess of 168 hours. Donated hours shall be credited to the affected employee as sick leave. The donation of leave hours is irreversible. Should the person receiving the donation not use all donated leave for the initial long-term illness or injury, any balance will remain in the County of Tuolumne DSA Voluntary Time Bank. When an employee is utilizing Time Bank hours, they will not accrue any leave time.

**(5) Assignment of Time.** Employees wishing to donate time will complete and submit the required form to the Human Resources Office. After review, the form will be forwarded to the Auditor-Controller's Office for payroll action and adjustment to donor and recipient's paid leave balance.

**(6) County and Employee Rights.** In no event shall donated time have the effect of altering the employment rights of the County or the recipient employee, nor shall it extend or alter the limitations otherwise applicable to leaves of absence or sick leave. The County reserves the right to modify or terminate an established Time Bank program, as it deems necessary.

## **Section L. 4850 Leave**

The County agrees to continue the application of California Labor Code Section 4850 to Jail Sergeants, Corporals and Deputies, Deputy Probation Officers and Juvenile Correctional Officers.

## **Section M. Regular Days Off**

Wherever, in this agreement, the number of individuals entitled to use leave or otherwise be off work is limited to a certain fixed number, that number shall not include any individuals off on their Regular Days Off.

## **ARTICLE 11. PROBATIONARY PERIOD**

### **Section A. Initial Probation**

The probationary period for permanent positions in this Unit shall be twenty-six (26) fully completed pay periods from date of hire or promotion into a new classification. Employees may be dismissed at any time during the probationary period without right of review or appeal, except as otherwise provided by law. The probationary period may be extended an additional thirteen (13) pay periods at the request of the Department Head and with the approval of the Human Resources Manager; and the employee is notified prior to the completion of the original probationary period.

### **Section B. Promotional Probation**

Upon promotion to a different classification with a higher salary schedule, a unit employee shall serve twenty-six (26) fully completed pay periods from the date of promotion as a probationary period. A promoted employee who has obtained permanent status in another classification within the same department who does not successfully complete the probationary period in the promoted class shall be returned to the lower classification excluding the position of Deputy Sheriff Recruit. If no vacancy exists in the lower classification, the provisions of the Layoff Article shall apply. Seniority within any MOU covered Department that is accrued within the promoted class shall continue to apply for all purposes should an employee return to his/her prior classification regardless of whether the employee changed divisions or assignments.

A promoted employee who has obtained permanent status in another classification within another County department who does not successfully complete the probationary period in the promoted class shall be returned to the former department (or other department where appropriate as determined by the CAO) in that classification or a comparable classification. Said return shall only be accomplished if a vacancy exists in the lower level classification.

### **Section C. Time Absent**

Any accumulated time absent during an initial hire or promotional probationary period of more than forty (40) hours shall serve to extend the probationary period for the total period of absence.

### **Section D. Promotional Eligibility**

An employee on probation may test and be placed on a promotional list while still on probation in current position but cannot be promoted until the current probationary term is completed.

## **ARTICLE 12. APPOINTMENT, TRANSFER AND PROMOTION**

### **Section A. Seniority**

**(1) Definition.** Employees shall be placed on the seniority list by classification in accordance with the date that they were first hired or promoted into their current classification. When employees have identical seniority, their relative seniority will be determined by lot. A representative of the Association shall witness the drawing of such lots.

**(2) Policy.** The County's policy with regard to seniority shall be as follows:

- (a) Placement on the seniority list shall not be affected by approved leaves of absence granted for work-related injuries or illnesses.
- (b) Placement on the seniority list qualifies an employee within his/her department for vacation and days off preference.
- (c) All things being equal in terms of skill, ability, training and experience, seniority shall be considered for shift, job and work assignments.

## **Section B. Vacancies, Promotions and Assignments**

**(1) Vacancies.** The Sheriff's Department shall post all vacancies in duty assignments that occur within the Sheriff's Department on the Department bulletin board a minimum of five (5) days prior to appointment. Temporary duty assignment vacancies anticipated to be filled for less than ninety (90) calendar days are not required to be posted. The posting shall contain the minimum requirements and qualifications and nature of the vacant assignment.

If no employees apply for a duty assignment, the Sheriff shall appoint a qualified employee. The length of such appointment shall be determined by the Sheriff'.

**(2) Promotional Opportunities.** Eligible lists for promotional opportunities shall be maintained for a period of one year from date of establishment of the list, provided that there are at least two names on the list.

During their first year of employment with the County, an employee may participate in the examination process, but their name will not be placed on the eligible list until they have completed their first year of employment, provided this provision does not apply to the Deputy Sheriff (Recruit) classification.

**(3) Volunteer Assignment.** The County agrees that employee participation in SWAT and diver assignments in the Sheriff's Department are strictly voluntary. Volunteer assignments are at the will of the Sheriff and there are no special compensation or property rights. Participation on the High Risk Supervision Team in the Probation Department shall be at management's discretion. No special compensation or property rights attach to such participation/assignment.

## **Section C. Dual Appointments**

The appointment of two (2) full-time employees to the same budgeted permanent position may be authorized by the County Administrator to ensure continuity of service during recruitment and hiring to fill a vacancy, facilitate training of the newly assigned/hired person, which is vacant due to an extended authorized leave of absence, or in an emergency. The most recently hired dual appointee shall enjoy all the benefits of a permanent employee, except permanent status. Upon return of the initial employee, the most recently hired dual appointee shall be terminated from employment without right of review or appeal, except as otherwise provided by law.

## **Section D. New Hires**

**(1) Salary Provisions.** New employees hired as Deputy Sheriffs Recruit or Jail Deputy Sheriff Recruit shall be hired at the "A Step". Upon successful completion of the POST Basic Academy or STC Core Academy the employee shall be promoted to a Deputy Sheriff or Jail Deputy Sheriff and placed at the "A Step". Future steps shall be applied as outlined in Article 2. Compensation, Section



## **C. Salary Rates and Step Advancements.**

Newly hired employees or current county employees who have previously completed an accredited POST Basic Academy or STC Core Academy shall be hired as a Deputy Sheriff or Jail Deputy Sheriff. Future steps shall be applied as outlined in Article 2. Compensation, Section C. Salary Rates and Step Advancements.

Current County employees who are being sponsored to attend an accredited POST Basic Academy by the Sheriff's Department shall be hired as a Deputy Sheriff Recruit. Initial step placement for current county employees shall be governed by the following provisions. If said County employees' current base salary rate does not exceed the then current "E Step" of a Deputy Sheriff Recruit, the employee shall retain their existing base salary rate. At no time shall an employee's base salary rate exceed the current "E Step" of a Deputy Sheriff Recruit. Future steps shall be applied as outlined in Article 2. Compensation, Section C. Salary Rates and Step Advancements.

Notwithstanding the above, new employees hired in this unit are typically hired at the "A" step of the established base salary range. Variable entrance steps may be established through the "E" step with the approval of the County Administrator.

**(2) Failure to Complete Probation.** Current Sheriff's Department employees who avail themselves of this program and who do not successfully complete the first year of the program shall be returned to their former classification excluding the position of Deputy Sheriff Recruit, unless terminated for cause. If no vacancy exists in their former classification, the provisions of the Layoff Article shall apply. If the employee was on probation at the time of entering into the program, the employee will be given credit for previous time completed towards the probationary period in the former classification. The provisions of the MOU covering their former classification shall govern Non-Sheriff's Department employees.

**(3) Relocation Allowance.** To assist in the County's efforts at recruiting experienced law enforcement personnel, the County shall pay a relocation allowance for new hires. Upon successful completion of ninety (90) calendar days of service, Deputy Sheriff or Deputy Probation Officer shall receive an allowance of Two Thousand Five Hundred Dollars (\$2,500.00) to help offset the costs associated with relocating to Tuolumne County. This provision shall not apply to any lateral entry applicant currently employed by a law enforcement agency located within Tuolumne County. Payment shall be made the first full pay period following completion of the ninety-day period above.

## **ARTICLE 13. GENERAL PROVISIONS**

### **Section A. Access to Personnel Records**

Personnel records are confidential and access to personnel records of an employee shall be limited to the County Administrator, or County Counsel, Human Resources/Risk Management staff, Department Heads, or their authorized representatives. Employees currently employed by the County and their representative, designated by the employee in writing, shall be allowed to review and/or receive a copy of the employee's personnel records during regular business hours. Matters exempted by law shall be excluded from the right of inspection by the employee.

Employees shall receive a copy of any document placed in his/her personnel file.

After five years with no record of similar infraction or misconduct, records of written reprimands, removals from assignment, suspensions and involuntary demotions shall be removed from the official

personnel file upon application by an employee and approval by the Department Head and Human Resources. Exceptions to the rule of removal are for records involving: discrimination / retaliation / hostile work environment (and any other violations of County EEO policies); violence in the workplace; dishonesty; infractions or misconduct that have been referenced in a prior performance appraisal; and intentional misconduct.

Any employee with an adverse action that was subject to removal under the prior (2011 – 2013 MOU) may have such adverse action removed from his/her personnel file pursuant to the schedule and terms specified in the 2011-2013 MOU.

The provisions of this section of the MOU do not take precedence over the requirements of the Government Code and the Penal Code regarding retention of Internal Affairs investigations documentation.

No matter shall be referred to or used in any fashion in an evaluation while that matter is pending a grievance or appeal determination or has been overturned as a result of the grievance or appeal procedure.

Employees desiring to review such records shall make such request in writing at least 24 hours in advance to their Department Head or the Human Resources Office as appropriate.

#### **Section B. Concealed Weapon Permits**

County administrative fees for unit employees seeking the issuance of a concealed weapon permit by the Sheriff of Tuolumne County shall be waived. Unit employees must meet the same legal and procedural requirements of the rest of the public before being granted a CCW permit. The employee shall pay all application processing fees required by the State of California.

#### **Section C. Computer Loan Program**

The County shall establish a non-interest bearing loan program for the purchase of computers and software by individual employees who have completed the probationary period and are in permanent status. Up to a maximum of one thousand five hundred dollars (\$1,500) will be loaned to each participating employee, with a corresponding bi-weekly deduction being made by the employee as reimbursement of the loan principle. The loan period shall be up to two (2) years, with payments being deducted per pay period for a total of fifty-two (52) pay periods. Computers may be either desktop, laptop, or tablets and must be equipped with the minimum software as required for that operating system.

#### **Section D. Meals for Sheriff's Custody Division and Juvenile Hall personnel**

Sheriff's Custody Division personnel may avail themselves of food prepared in the Jail kitchen at no cost while they are on-duty. Once the new Juvenile Hall is completed and staffed, Juvenile Hall personnel may avail themselves of food provided to juveniles at the Juvenile Hall at no cost while they are on duty.

#### **Section E. Educational Reimbursement**

The Educational Reimbursement Program shall consist of the reimbursement of fifty percent (50%) of the cost of books and tuition for job-related courses not offered through the County in-service training program provided the courses are approved by the Department Head and County Administrator prior

to registration and proof of passing grades and official receipts are provided to the Department Head after course completion. The amount subject to reimbursement shall not exceed \$5,000 per fiscal year.

The County shall pay the cost of any specialized certification for employees whose position classification requires said certificate be maintained as a condition of employment.

Employees utilizing this section shall follow the procedures spelled out in the County's current Educational Assistance Program.

## **Section F. Travel and Expense Reimbursement**

**(1) General Provisions.** The purpose of this Article is to define the policy and procedure by which employees shall report and be reimbursed for reasonable and necessary expenses incurred on behalf of Tuolumne County, except as may be otherwise provided in this Agreement.

**(2) Responsibilities.** It shall be the responsibility of each department head or designee to investigate and approve each request for expense reimbursement. It shall be the responsibility of each employee to obtain prior approval from the department head or designee to incur a business expense. Departments shall endeavor to utilize the County's credit card system for payment of expenses incurred under this Article (referred hereafter as department credit). Credit charged expenses not approved by the department head are the sole responsibility of the employee and may be so deducted from the employee's salary. Prior approval may be in the form of standing orders issued by the department head.

**(3) Travel Authorization/Travel Policy.** For existing County policy regarding travel and reimbursement of travel expenses, see the currently adopted County Personnel Rules and Regulations.

## **ARTICLE 14. LAYOFF PROCEDURE**

### **Section A. Definition**

A layoff is the involuntary separation, demotion, or reduction in work hours of a permanent employee without fault of the employee. Layoff applies only to permanent positions. A layoff occurs only when there is a surplus of employees, a position is to be deleted from the authorized position allocation listing, a position's scheduled work hours are being reduced on a permanent basis, or when funds are withdrawn from a previously funded position.

### **Section B. Procedure**

Layoffs shall be by classification within a department. The Board of Supervisors has the sole authority to determine the number and classification of positions to be laid off within each department. Prior to any reduction in the work force of permanent employees, all relief and probationary employees within the affected classification and department shall be separated. Layoffs will be accomplished by seniority in accordance with the following procedure:

**(1)** The order of layoffs shall be as follows:

- (a) Permanent part-time employees, and finally
- (b) Permanent full-time employees

(2) In lieu of being separated a permanent employee may elect to demote to any classification within the department for which the employee is qualified or in which the employee had previously held permanent status. Such employee shall be placed at a salary step within the new classification, not to exceed the top step. An employee affected by layoff shall have the right to displace an employee in the same department who has less seniority in 1) a lower classification in the same classification series or in 2) a lower classification in which the affected employee once had regular status. For the purpose of this section, seniority includes all periods of full-time service at or above the classification level where the layoff is to occur.

(3) In special circumstances, upon recommendation of the Department Head and approval of the Human Resources Manager, an employee may elect to transfer and/or demote in lieu of layoff to a vacant position in another department providing that the employee's skills, knowledge's and abilities are adequate for the position sought.

(4) Any employee replaced by demotion shall have the same rights as set forth above.

(5) Permanent employees shall be provided a written notice of intended action with the reasons therefore at least ten (10) work days before the effective date of any layoffs.

### **Section C. Reemployment Rights**

(1) A reemployment list by classification shall be established in order of seniority. Persons on this list will be afforded first opportunity for appointment to any future employment in said class.

(2) Such right to reemployment shall be for a period of two (2) years. Said employee, if recalled within that period, will resume employment on the same basis as returning from an unpaid leave of absence. A person declining offered appointment will be stricken from the reemployment list after two (2) refusals.

(3) After two (2) years, laid off employees will continue to be encouraged to apply for positions within the County service. Such persons will receive full consideration of such application in light of former service. Nothing in this section assigns any further rights to such persons.

## **ARTICLE 15. GRIEVANCE PROCEDURE**

### **Section A. Purpose**

It is the purpose of this procedure to provide a simplified and definite method for Unit employees to resolve grievances they may have in their employment relationships with the County of Tuolumne. The overall policy of this procedure is to provide for the resolution of grievances at the lowest level within the employment hierarchy of the County as is possible without unnecessarily disrupting county functions or services. This procedure shall be liberally construed to effectuate its purpose and shall be viewed by all as a means to enhance the function of the County in providing services to the general public. The use of this procedure in resolving grievances shall not be held against any employee in any manner since the adoption of this procedure gives each employee the right to use it.

### **Section B. Definition of a Grievance**

A grievance is a disagreement between County management and an employee, group of employees,

or DSA concerning the interpretation, application, or violation of a specific article(s) of this Memorandum of Understanding or written rules or regulations governing personnel practices. This grievance procedure shall not apply to disciplinary action. All such appeals shall be governed by Article 16 of this MOU.

### **Section C. Time Limitations and Notification**

Time limits are established to settle a grievance quickly. Time limits may be modified only by agreement of the parties. If at any step of this Grievance Procedure, the grievant is dissatisfied with the decision rendered it shall be the grievant's responsibility to initiate the action which submits the grievance to the next level of review within the time limits specified. If a decision has not been filed in a timely manner by the reviewing official, the grievant may at his/her option remain at the current level or advance the grievance to the next level. Failure to submit the grievance within the time limits imposed shall terminate the grievance process and the matter shall be considered resolved.

A formal grievance may be entertained or advanced to any step if the parties jointly so agree, provided that only DSA may initiate the Fifth Step of this procedure.

For purposes of this procedure, notification to a party may be given personally, telephonically, or by mail. When notice is mailed to an employee, it shall be sent to the employee's current address of record. Notice by mail shall be deemed to have been completed on the fifth calendar day following deposit of notice with the United States Postal Service.

### **Section D. Jurisdiction**

The Human Resources Manager shall have the sole authority within the County structure to provide the official management interpretation or application to any and all provisions of this Agreement. The Human Resources Manager, or designee, may represent the department during any step of this procedure. Unit employees may use this procedure, regardless of membership in any employee organization. The decision to use this procedure and any step thereof is solely that of the grievant. In using this procedure, however, any grievant may choose to be represented by another, including the representative of an employee organization. The DSA is not required to pursue all grievances on behalf of individual employees.

### **Section E. Use of County Time**

Reasonable County time, subject to the discretion of the Department Head, may be used in the preparation of a written or oral grievance. County time shall be available for the procedure set forth below.

### **Section F. Steps in the Grievance Procedure**

No complaint shall be considered a grievance and shall be time barred unless it is presented within twenty (20) calendar days after the employee was aware or should have been aware of the conditions precipitating the grievance.

- (1) First Step:** Any employee or group of employees having a grievance shall first discuss the grievance on a personal face-to-face basis with the first line supervisor or the lowest level of supervisor capable of remedying the grievance. Within five (5) calendar days the individual so designated shall render a verbal decision. If the grievant is not satisfied with the decision, the grievant may no later than five (5) calendar days submit the grievance to the next step.

**(2) Second Step:** If a mutually acceptable solution has not been reached in Step 1, the grievant shall submit the grievance in writing to the next level of supervision above the supervisor in step one. The written grievance shall provide a detailed statement of the grievance, including dates, names and places, applicable MOU article(s) or personnel practices, and the specific remedy requested. Within seven (7) calendar days of receipt the individual so designated shall render a written decision.

**(3) Third Step:** If the grievant is not satisfied with the decision at the Second Step, the grievant may not later than seven (7) calendar days after receipt of the Second Step decision appeal the written grievance to the Department Head. The Department Head, or designee, shall personally meet with the grievant as soon as is practicable, but not later than fourteen (14) calendar days from the presentation of the written grievance, to discuss the grievance and shall render a written decision to the grievant within fourteen (14) calendar days of such meeting. The Department Head and the grievant may call any witnesses at such meeting in order to reach a decision. Any meeting may be continued by the Department Head if necessary; however, the meeting will not be a formal meeting.

**(4) Fourth Step:** If the grievant is not satisfied with the Third Step written decision, the grievant may not later than five (5) calendar days following receipt of the Third Step decision appeal the grievance to the Human Resources Manager. If the Human Resources Manager determines the grievance is grievable, the Human Resources Manager shall meet with the grievant and/or DSA representative and appropriate Departmental Administration representative to attempt to informally resolve the grievance. This process shall occur within seven calendar days of Human Resources' receipt of the grievant's appeal from the Third Step; however, the seven calendar day timeline may be mutually waived in order to schedule the meeting to informally discuss and attempt to resolve the grievance.

**(5) Fifth Step:** If a mutually acceptable solution is not reached at the Fourth Step, only DSA may submit a written request to the Human Resources Manager that the grievance be referred to mediation. Alternatively, the Human Resources Manager may request mediation. Whenever a grievance is requested as provided for in this Fifth Step, a mediator from the California State Mediation shall provide a state mediator. The state mediator shall assist the parties in the resolution of the grievance in the same manner as that which is normally used in the mediation of interest disputes. The DSA may not request that the grievance be advanced to either the Sixth Step or the Seventh Step until the mediator has released the parties from the mediation process. Upon release from the mediation process, the DSA or Human Resources Manager may request that the grievance be advanced to the Sixth step within fourteen (14) calendar days of notification from the mediator.

**(6) Sixth Step: Arbitration or Hearing Panel and Conduct of Hearing**

- a) **Arbitration:** An arbitrator shall be chosen from a list requested by the California State Mediation and Conciliation Service consisting of seven (7) arbitrators who are qualified and experienced in public sector employment following an alternate striking process. The first strike shall be chosen by lot. The cost of arbitration shall be shared equally by both parties. The parties may agree on a standing panel. The decision of the arbitrator shall be final and binding on all parties.

b) Hearing Panel: A hearing panel shall be comprised of one (1) representative of the County Administrator, one (1) representative of the Association and one neutral member selected by the other two members. The cost, if any, of the hearing panel shall be shared equally by both parties. The decision of the hearing officer shall be final and binding on all parties.

(c) Conduct of Hearing: The arbitration or hearing panel shall be governed by the Voluntary Labor Arbitration Rules of the American Arbitration Association. Only the DSA or Human Resources Manager may advance a grievance to the Sixth Step and the selection of either arbitration or a hearing panel excludes the other Sixth Step process as an additional step or appeal in the grievance process.

## **ARTICLE 16. DISCIPLINARY ACTION**

### **Section A. Definition**

Disciplinary action means an action taken by the County resulting in a letter of reprimand, dismissal, suspension, reduction in salary step for a specified time period, or demotion of a permanent employee.

### **Section B. POBAR**

The County and the DSA agree that Peace Officers Bill of Rights Act shall be extended to the Juvenile Correctional Officers.

### **Section C. Cause(s) of Action**

An employee with permanent status with the County may be disciplined only for cause. Possible causes for discipline include, but are not limited to, the following:

- (1) Omission or willful misrepresentation of a material fact or other fraud in securing employment including, but not limited to, the following:
  - (a) Falsification of application for work;
  - (b) False information regarding driver's license; and
  - (c) False information regarding professional licenses, credentials, or certificates;
- (2) Falsification of an official statement or document;
- (3) Willful disobedience of any job-related law, ordinance, County rule, or departmental regulation or any superior's lawful order;
- (4) Incompetence;
- (5) Inefficiency;
- (6) Inexcusable neglect of duties;
- (7) Insubordination;
- (8) Dishonesty, untruthfulness, lying;
- (9) Improper use of drugs or alcohol including, but not limited to, the following:
  - (a) In possession of, under the influence of, alcohol beverages, while at work or in County work areas;
  - (b) In possession, in use, under the influence of, or trafficking in habit forming drugs and/or narcotics while at work or on County property. The term "drugs" means controlled substances as defined in Division 10 (commencing with Section 11000) of the California Health and Safety Code;
- (10) Unexcused absence from duty;

- (11) Conviction of a felony or conviction of a misdemeanor involving moral turpitude; a plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning this subsection;
- (12) Discourteous treatment of the public or other employees, including but not limited to harassment of any individual based on their race, color, religion, gender, gender identity or expression, ancestry, national origin, age, genetic information, marital status, sexual orientation, medical condition or disability, amnesty, or status as a covered veteran or usage of family medical care leave or pregnancy leave in accordance with applicable federal, state and local laws;
- (13) Misuse of County property or damage to County property resulting from misuse or negligence;
- (14) Inconsistent, incompatible or conflicting employment activity or enterprise;
- (15) Violation of a department rule;
- (16) Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the County;
- (17) Sexual harassment;
- (18) Failure to comply with any requirements of the Department of Transportation Drug Testing Regulations for covered employees;
- (19) Confirmed failure of any drug test as set forth in the Tuolumne County Alcohol and Drug Policy.
- (20) Commission of any type of Illegal violence in the workplace against another employee. Illegal violence related to the workplace, that is committed off site and off working hours is also subject to severe discipline.
- (21) Abuse of leave/tardiness.
- (22) Failure to meet work performance standards and requirements.

#### **Section D. General Provisions**

Except as otherwise provided herein, probationary or relief employees may be dismissed, suspended, reduced in salary step for a specified time period or demoted without right to review or appeal unless otherwise required by law. Probationary employees who have obtained permanent status with the County in another classification shall not be dismissed without following the procedures contained herein.

A Letter of Counseling is not considered to be a disciplinary action. However, a Letter of Counseling may be referenced in a subsequent disciplinary action.

A Letter of Reprimand is considered to be a disciplinary action. Any employee receiving a Letter of Reprimand may respond to the Letter of Reprimand within thirty (30) calendar days from the date of receipt of the Letter of Reprimand. The employee's written response shall be attached to the Letter of Reprimand and placed in the employee's personnel file. A Letter of Reprimand shall not be appealed beyond the informal response meeting with the Department Head as provided in Section E below.

#### **Section E. Notice of Proposed Disciplinary Action**

Prior to imposing discipline, the Department Head shall:

- (1) Review the proposed action with the Human Resources Office;
- (2) Prepare and serve a written notice, reviewed by the County Counsel's Office, to inform the employee of the proposed action; the reasons for the proposed action pursuant to Section B herein; a copy of charges stating specific incidents or specific courses of conduct; and a copy of the written



materials pertaining to those incidents or course of conduct; and a notice of the right to respond to the Department Head intending to impose the discipline.

#### **Section F. Response to Notice of Proposed Disciplinary Action**

(1) A permanent employee given notice of intended disciplinary action has a right to a Skelly meeting and may, within seven (7) calendar days after service of the notice, respond to the Department Head or other designated Skelly Officer either orally or in writing. The employee shall not be entitled to a formal hearing with examination of witnesses, but he/she may present statements by himself/herself, written statements of any witnesses and other documentary material. The employee may be represented by another in presenting the employee's response. The Department Head or other designated Skelly Officer shall fairly and impartially consider the employee's response and shall provide his/her decision in writing of one of the following:

- (a) Uphold the proposed disciplinary action;
- (b) Notify the employee that the proposed disciplinary action will not be imposed;
- (c) Impose a lesser disciplinary action; or
- (d) Amend the charges.

(2) In the event the Department Head/Skelly Officer substantively amends the intended charges or proposes to increase the level of discipline, (s)he shall give another notice as provided in Section D. The level of discipline shall not be increased unless the charges are substantively amended.

#### **Section G. Order of Disciplinary Action**

After completing the requirement of Section E, the Department Head/Skelly Officer shall serve upon the employee an Order of Disciplinary Action in writing stating:

- (1) The nature of the disciplinary action;
- (2) The effective date of the action;
- (3) The causes therefore;
- (4) The specific acts or omissions upon which the causes are based, stated in ordinary and concise language; and
- (5) The right of the employee to appeal.

The effective date for any termination, three (3) or more day suspension or equivalent reduction in pay (not to exceed a ten percent (10%) reduction in step in any pay period) shall be effective as provided in the Order of Disciplinary Action. The effective date of any other disciplinary action shall be stayed until the employee has exhausted any appeal rights granted herein.

#### **Section H. Appeal of Order of Disciplinary Action**

In the case of a dismissal, suspension, reduction in salary step for a specified time period, or demotion of a permanent employee, the employee may, within seven (7) calendar days after service of the order, appeal the action of the Department Head/Skelly Officer. An appeal shall be in writing, shall be filed with the Human Resources Office, shall contain an answer to each charge in the Order, and shall designate the requested hearing body as provided in this procedure. As soon as practicable, the Human Resources Office shall set the appeal for hearing before the requested hearing body and notify the interested parties of the date and time of the hearing.

#### **Section I. Disciplinary Action – Maximum Suspension**

No disciplinary suspension shall be imposed for any period exceeding one hundred sixty (160) working hours, and the order of suspension shall expressly state, in addition to the reasons therefore,

the dates of the commencement and expiration of suspension.

#### **Section J. Service of Notice**

For purposes of this procedure, notification to a party may be given either orally in person, or by mail. When notice is mailed to an employee, it shall be sent to the employee's current address of record. Notice by mail shall be deemed to have been completed on the fifth calendar day following deposit of notice with the United States Postal Service. The Department Head shall promptly furnish the Personnel Office with a copy of each notice or order and a statement showing by whom, the manner and the date the notice or order was served.

#### **Section K. Disciplinary Action - Amendment of Order**

At any time before the hearing, the Department Head may file with the Human Resources Office an amended or supplemental Order, which shall be served upon the employee. If an amended Order presents new causes or evidence for discipline, the employee shall be afforded all of the procedural safeguards enumerated in Section D and Section E herein prior to the discipline becoming effective.

#### **Section L. Disciplinary Action - Immediate Suspension**

The Department Head may suspend an employee without prior notice with pay if immediate suspension is essential to avert harm to the County or to the public. In such case, the notice of suspension shall inform the employee of his or her right to reconsideration by the Department Head who shall follow the procedures outlined in this Article.

#### **Section M. Disciplinary Action - The Hearing**

**Hearing Officer or Arbitrator.** A permanent employee shall have the option of a hearing either before a hearing officer or an arbitrator, as provided in Article 16 of this Agreement. In either instance, the decision of the Hearing official shall be considered final and binding.

**(2) Closed Hearing - Right to Counsel.** The hearing shall be held in closed session unless the employee notifies the Human Resources Office in writing at least two (2) workdays prior to the hearing date that he or she desires to have the hearing in public. The employee shall have the right to be represented by counsel and to present evidentiary facts. The hearing official may at any time exclude any person who may be a witness in the case under consideration, with the exception of the employee and the departmental representative.

**(3) Rules of Evidence.** The hearing shall be informal and the hearing official shall not be bound by the rules of evidence governing trial procedure in State Courts. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule, which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing other evidence; however, it shall not be deemed sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

**(4) Rules of Privilege.** The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

**(5) Decision of Hearing Official.** In arriving at a decision, the hearing official may consider any prior County disciplinary action including any relevant letters of reprimand filed with the Human Resources Office. The hearing official shall make an official decision either affirming, modifying or

revoking the order. The decision shall contain findings of fact, which may be stated in the language of the pleadings or by reference thereto. A copy of the written decision of the hearing official shall be transmitted to the Department Head and the Human Resources Manager. The Department Head shall serve a copy of the decision upon the employee. A copy of the decision shall be placed in the employee's personnel file. If the proposed discipline is overruled, no evidence of the hearing or the discipline will be placed in the personnel file.

#### **Section N. Disciplinary Action - Burden of Proof**

The burden of proof shall be on the Department Head issuing the disciplinary order. The quantum of proof required to sustain such action shall be a preponderance of the evidence.

#### **Section O. Disciplinary Action - Examination under Evidence Code**

At the hearing the employee may be examined under Section 776 of the California Evidence Code. Failure of the employee to appear at the hearing or failure to testify if called as a witness without extenuating circumstances shall be deemed a withdrawal of the employee's appeal and the action of the Department Head shall be final.

#### **Section P. Disciplinary Action - Affirmation or Revocation of Action**

The hearing official may affirm or revoke the action taken by the Department Head or may modify such action to a less severe punishment. The hearing official may order the employee returned to his or her position either as of the date of the punitive action by the Department Head or as of such later date as may be specified. If the hearing official revokes or modifies the Order of the Department Head, the appealing employee shall be granted forthwith all rights and privileges pertaining to County service in accordance with the Order of the hearing official.

#### **Section Q. Disciplinary Action - Use of Competent Recorder**

The hearing official may direct the Human Resources Office to arrange for a competent reporter to record the proceedings at the hearing if, in the opinion of the hearing official, such a record is necessary. The County, Association, or employee involved may purchase all or part of the record provided the request therefore is made within ninety (90) calendar days of the date of service of the final decision on the employee. A request for the record shall be accompanied by payment of the estimated cost thereof as determined by the Human Resources Manager and the person making the request shall be obligated to pay the full cost prior to delivery of the transcript.

### **ARTICLE 17. PROVISIONS OF LAW**

It is understood and agreed that this Memorandum of Understanding is subject to all current and future applicable Federal and State laws and regulations and the current provisions of the County of Tuolumne Code. If any part or provision of this MOU is in conflict or inconsistent with such applicable provisions of those Federal, State or County enactment's or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part or provisions shall be suspended and superseded by such applicable law or regulations, and the remainder of this Memorandum of Understanding shall not be affected.

If any part or provision of this MOU is suspended or superseded, the parties agree to reopen negotiations regarding the suspended or superseded part or provision with the understanding that total compensation to employees under this MOU shall not be reduced or increased as a result of this

Article. The parties hereto agree to refrain from initiating any legal action or taking individual or collective action that would invalidate articles of this MOU.

#### **ARTICLE 18. PEACEFUL PERFORMANCE**

**A.** The parties to this Agreement recognize and acknowledge that the services performed by the County employees covered by this Agreement are essential to the public health, safety, and general welfare of the residence of the County of Tuolumne. The Association agrees that under no circumstances will the Association recommend, encourage, cause or permit its members to initiate, participate in, nor will any member of the bargaining unit take part in, any strike, sit-down, stay-in, sick-out or slow-down in connection with a labor dispute (hereinafter collectively referred to as work-stoppage) by any member of the bargaining unit for any alleged violation of this Agreement. The Association further agrees that under no circumstances will the Association engage in a work stoppage in sympathy or support of any other County employees. The County shall not be required to negotiate on the merits of any disputes, which may have given rise to such work stoppage until the work stoppage has ceased.

**B.** In the event of any work-stoppage, during the term of this Agreement, whether by the Association or by any member of the bargaining unit, the Association, by its officers, shall immediately declare in writing to the County Board of Supervisors that such work-stoppage is in violation of this Agreement and unauthorized, and further direct its members in writing to cease the said conduct and resume work. Copies of such written notice shall be served upon the County. In the event of any work stoppage, the Association promptly and in good faith performs the obligations of this paragraph; the Association shall not be liable for any damages caused by the violation of this provision. However, the County shall have the right to discipline, to include discharge, any employee who instigates, participates in, or gives leadership to any work-stoppage activity herein prohibited, and the County shall have the right to seek full legal redress, including damages, as against any such employee.

**C.** The County agrees not to lock out during the term of this Agreement.

#### **ARTICLE 19. FULL UNDERSTANDING, MODIFICATION AND WAIVER**

**A.** This Agreement represents the final agreement of the parties relative to each item expressly provided for herein during the term of the memorandum of understanding. All provisions of this agreement shall continue in full force and effect during the term of this MOU, unless the parties agree otherwise pursuant to Article 19.C. below.

**B.** All other ordinances, resolutions, rules and regulations, practices and policies within the scope of bargaining as defined by the Meyers-Milias Brown Act ("MMBA") may be changed during the term of this Agreement only after exhaustion of all required processes under the MMBA, including advance notice to the DSA representatives, and good faith meet and confer to the point of agreement or impasse.

**C.** Any agreement, alteration, understanding, waiver or modification of any of the terms or provisions contained in this Agreement shall not be binding on the parties unless made and signed in writing by all of the parties to this Agreement, and, approved and implemented by the Board of Supervisors.

**D.** The waiver of any breach, term or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

## **ARTICLE 20. TERM**

This MOU shall become effective after adoption by the Board of Supervisors through December 31, 2019.

## **ARTICLE 21. APPROVAL BY BOARD OF SUPERVISORS**

This Memorandum of Understanding is subject to approval by the Board of Supervisors. The parties hereto agree to perform whatever acts are necessary, both jointly and separately, to urge the Board to approve and enforce this Memorandum of Understanding. Following approval of this Memorandum of Understanding by the Board, its terms and conditions shall be implemented by appropriate ordinance, resolution or other appropriate lawful action.

Dated:

### **COUNTY OF TUOLUMNE**

Edward L. Kreisberg 1/16/17  
Edward Kreisberg (date)  
Attorney at Law

\_\_\_\_\_  
Ann Fremd (date)  
Human Resources/Risk Manager

\_\_\_\_\_  
Craig L. Pedro, (date)  
County Administrator

Approved as to form:

\_\_\_\_\_  
Sarah Carrillo  
County Counsel

### **TUOLUMNE COUNTY DEPUTY SHERIFFS' ASSOCIATION**

\_\_\_\_\_  
Jason Jasmine (date)  
Attorney at Law

\_\_\_\_\_  
Mark Kerzich (date)  
President DSA

\_\_\_\_\_  
Greg Rogers (date)  
Vice President DSA

Accepted this \_\_\_\_ day of \_\_\_\_\_ 2017

\_\_\_\_\_  
Sherri Brennan, Chairperson  
Board of Supervisors

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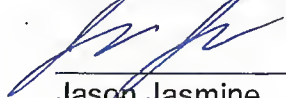
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Human Resources/Risk Manager

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Craig L. Pedro, (date)  
County Administrator

\_\_\_\_\_  
Sarah Carrillo  
County Counsel

### **TUOLUMNE COUNTY DEPUTY SHERIFFS' ASSOCIATION**

 11/16/17  
\_\_\_\_\_  
Jason Jasmine (date)  
Attorney at Law

\_\_\_\_\_  
Mark Kerzich (date)  
President DSA

\_\_\_\_\_  
Greg Rogers (date)  
Vice President DSA

\_\_\_\_\_  
Sherri Brennan, Chairperson  
Board of Supervisors

Approved as to form:

Accepted this \_\_\_\_ day of \_\_\_\_\_ 2017

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Dated:

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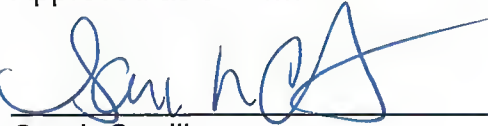
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Edward Kreisberg (date)  
Attorney at Law

 1/16/17

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Ann Fremd (date)  
Human Resources/Risk Manager

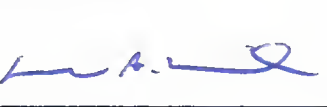
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\_\_\_\_\_  
Craig L. Pedro, (date)  
County Administrator

Approved as to form:

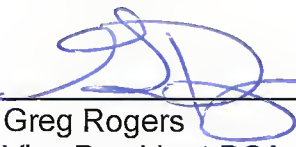
  
\_\_\_\_\_  
Sarah Carrillo  
County Counsel

### TUOLUMNE COUNTY DEPUTY SHERIFFS' ASSOCIATION

\_\_\_\_\_  
Jason Jasmine (date)  
Attorney at Law

 1/16/17

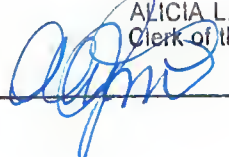
\_\_\_\_\_  
Mark Kerzich (date)  
President DSA

 1-16-17  
\_\_\_\_\_  
Greg Rogers (date)  
Vice President DSA

Accepted this 17 day of January 2017

  
\_\_\_\_\_  
Sherri Brennan, Chairperson  
Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

\_\_\_\_\_  
ALICIA L. JAMAR  
Clerk of the Board  
By: 



# ATTACHMENT "A"

## CONTRACT TO WORK FLEXIBLE WORK SCHEDULE

- HEREAS, it is well recognized that employee productivity, and morale improve when work schedules can be adjusted to suit the individual;
- HEREAS, the County and the Department must adhere to state, county, and Memorandum of Understanding requirements;
- HEREAS, the County must ensure its commitment to public service is met; and
- HEREAS, the County is desirous to provide a work environment reflective of the individual employees' needs as well as the County and Department's needs.

NOW, THEREFORE the County and the EMPLOYEE agree as follows:

1. \_\_\_\_\_ (hereinafter "EMPLOYEE") may vary his/her working schedule by starting and stopping at different times during the work week. Starting shall be no earlier than \_\_\_\_\_ hours prior to the regular business hours of the Department. Stopping shall be no more than \_\_\_\_\_ hours following regular business hours of the Department. In no event may EMPLOYEE work more than forty (40) hours in a work week.
2. The Department head and the EMPLOYEE shall agree to the flexible hours to be worked by the EMPLOYEE.
3. EMPLOYEE must attend all scheduled staff meetings, training sessions, and other mandatory functions regardless of EMPLOYEE's flexible schedule. Therefore, EMPLOYEE may be required to alter his/her schedule in order to end.
4. Flexible work schedules shall ensure that adequate coverage is maintained to meet service needs and that schedule changes will not adversely affect the delivery of services.
5. EMPLOYEE is entitled to rest periods and lunch breaks as provided in the appropriate memorandum of understanding. Breaks may not be skipped to shorten the work day or be carried over to another day.
6. A Time Log shall be kept by EMPLOYEE and submitted with official time records if required by the Department.
7. A flexible work schedule is an employee privilege. Unsatisfactory performance and or abuse of the privilege shall result in the loss of the flexible work schedule by EMPLOYEE.
8. EMPLOYEE acknowledges that the Department may in certain circumstances require EMPLOYEE to flex his/her time in order to meet Department needs. The County will endeavor to keep such disruptions of EMPLOYEE's work schedule to a minimum.
9. Either the County or EMPLOYEE may terminate this Contract by providing one (1) complete pay period written notice to the other.

10. Nothing in this Contract shall supersede any provisions in any Memorandum of Understanding.

**IN WITNESS WHEREOF**, the Employee and the County have entered into this Contract on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ in Sonora, California, County of Tuolumne.

"EMPLOYEE"

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

"COUNTY"

By: \_\_\_\_\_

Department Head



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